



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB OPC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on November 16, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a breach of the Tenant's written notice to end the tenancy;
- an order of possession based on a One Month Notice to End Tenancy for Cause, dated September 27, 2017, which had an effective date of October 31, 2017 (the "One Month Notice"); and
- an order granting recovery of the filing fee.

The Landlord attended the hearing in person. The Tenant attended the hearing in person and was accompanied by her husband, C.M. All in attendance provided a solemn affirmation.

The Landlord testified that the Tenant was served with the Application package in person on November 19, 2017. The Tenant acknowledged receipt. I find the Application package was served upon and received by the Tenant on that date. The Tenant did not submit any documentary evidence in response to the Application.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

The parties disagreed about when the tenancy began. However, they agreed the Tenant continues to reside in the rental unit. Rent is currently due in the amount of \$675.00 per month. The Landlord acknowledged receipt of a security deposit of \$387.50, which he holds.

The Landlord sought an order of possession based on the undisputed One Month Notice. According to the Landlord, the One Month Notice was served on the Tenant in person on September 27, 2017. The Tenant acknowledged receipt of the One Month Notice at that time.

Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 47 of the *Act* permits a landlord to end a tenancy in the circumstances described therein. Section 47(4) of the *Act* confirms that upon receipt of a notice to end tenancy for cause, a tenant who wishes to dispute the notice must do so by filing an application for dispute resolution. Pursuant to section 47(5) of the *Act*, failure to dispute the notice to end tenancy for cause within 10 days after receipt results in the conclusive presumption the tenancy has accepted the end of the tenancy.

In this case, the Tenant confirmed she received the One Month Notice on or about September 27, 2017. However, she confirmed she has not disputed the One Month Notice by filing an application for dispute resolution. Accordingly, pursuant to section 47 of the *Act*, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the One Month Notice. The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

In addition, having been successful, I find the Landlord is entitled to recover the filing fee paid to make the Application, which I order may be retained from the security deposit held by the Landlord.

In light of my finding above, it is not necessary for me to consider the Landlord's request for an order of possession based on the Tenant's written notice to end the tenancy.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 29, 2018

Residential Tenancy Branch