



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLDWELL BANKER PRESTIGE REATY
and [tenant nto protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee for this application.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the “hearing package”) by registered mail on December 12, 2017. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants absence.

Issues(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

This tenancy started on October 18, 2015 as a 4.5 month fixed term tenancy and then continued on a month to month basis. Rent was \$1,750.00 per month payable in advance of the 1st day of each month. The Tenants paid a security deposit of \$875.00 at the start of the tenancy. The Landlord said a move in condition inspection report was completed at the start of the tenancy.

The Landlord said she issued a 1 Month Notice to End Tenancy for Cause dated October 24, 2017 on October 24, 2017 by registered mail with an effective vacancy date of November 30, 2017. The reason on the Notice is repeatedly late rent payments. The Landlord continued to say that she believes the Tenants moved out of the rental unit in late December, 2017 but she is still requesting an Order of Possession. The Landlord said there is unpaid rent and damage to the unit and she will make an application for a monetary claim in the future.

Analysis

Section 47(b) says a landlord may end a tenancy by giving a notice to end tenancy if the Tenants are repeatedly late paying the rent

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a tenant may apply for dispute resolution. If the tenant fails to do this, then under section 47(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenants are deemed to have received the Notice to End Tenancy five days after it was mailed, or on December 17, 2017. Consequently, the Tenants would have had to apply to dispute the Notice by December 22, 2017.

I find that the Tenant has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that as the Landlord was successful in this matter she is entitled to recover the filing fee of \$100.00 for this proceeding from the Tenant. I order the Landlord to retain \$100.00 from the Tenant's security deposit as full payment of the filing fee for this application.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenants has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Order of Possession may be enforced in 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 10, 2018

Residential Tenancy Branch