



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, OPM

Introduction

The Application for Dispute Resolution filed by the landlord seeks the following:

- a. An Order of Possession for cause
- b. An Order of Possession based on a mutual agreement to end the tenancy.

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent or anyone appearing on his behalf. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the one month Notice to End Tenancy was personally served on the Tenant on December 5, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was served by mailing, by registered mail to the tenant's address of residence on January 5, 2018. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issue to be decided is whether the landlord is entitled to an Order for Possession?

Background and Evidence:

The parties entered into a tenancy agreement that provided that the tenancy would start on November 1, 2017. The rent is \$850 per month payable in advance on the first day of each month.

The landlord received complaints for other tenants in the rental property and the landlord approached the tenant about the misconduct. On November 27, 2017 the tenant gave the landlord written notice he was vacating at the end of November.

The tenant failed to vacate as set out in the Notice. On December 5, 2017 the landlord served a one month Notice to End Tenancy on the Tenant. The tenant did not file and Application to Dispute the Notice.

The landlord testified the rent was paid for December but it has not been paid for January 2018 and February 2018. They further testified the Tenant has passed away. There are people living in the rental unit who are not Tenants and they do not have a tenancy agreement with them.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The Tenant(s) ended the tenancy when he gave the landlord notice in writing that he was vacating the rental unit effective November 30, 2017. Further the tenant was served with a one month Notice to End Tenancy in the approved government form on December 5, 2017. The tenant failed to make an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. The tenant has subsequently passed away and anyone living in the rental unit is doing so without lawful authority. Accordingly, I granted the landlord an Order for Possession. I ordered that Tenant and any one or more person(s) gaining possession through the tenancy of the Tenant, to deliver full and peaceable vacant possession and occupation of the said premises to the said Landlord(s), within 2 days of service of this Order on you.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

This decision is final and binding on the parties.

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: February 26, 2018

Residential Tenancy Branch