



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

FFL & OPC

Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession based on a 1-month Notice to End Tenancy, and requesting recovery of the \$100.00 filing fee.

The applicant(s) testified that the respondent was served with notice of the hearing by registered mail that was mailed on January 5, 2018; however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing, and therefore it is my finding that the respondent has been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicants have established the right to an Order of Possession and recovery of their filing fee.

Background and Evidence

The applicants testified that a 1 month Notice to End Tenancy was posted on the tenant's door, on November 27, 2017 stating the following reasons:

Tenant or person permitted on the property by the tenant has

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardize the health or safety or lawful right of another occupant or the landlord.

Landlord testified that the tenant has filed no dispute of Notice to End Tenancy, however the tenant has also failed to comply with the notice, and is still living in the rental unit.

The landlords are therefore requesting an Order of Possession for as soon as possible, and recovery of their \$100.00 filing fee.

Analysis

I accept the landlords sworn testimony that the tenant was served with a one-month Notice to End Tenancy on November 27, 2017, by posting that notice on the door of the rental unit. A Notice to End Tenancy that is posted on the door is deemed served three days later.

Sections 47(4) & 47(5) of the Residential Tenancy Act state:

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

It is my decision therefore pursuant to section 62 of the Residential Tenancy Act, that I will allow the landlord's request for an Order of Possession, because the tenant has failed to file a dispute of this notice and the time limit in which to file such a dispute is

well past. The tenant is therefore conclusively presumed to have accepted the end of the tenancy.

I also allow the landlord's request for recovery of the \$100.00 filing fee.

Conclusion

Pursuant to sections 47 and 55 of the Residential Tenancy Act I have issued an Order of Possession that is enforceable two days after service on the tenant.

Pursuant to section 72 of the Residential Tenancy Act, I have issued a Monetary Order in the amount of \$100.00.

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: March 01, 2018

Residential Tenancy Branch