



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on January 12, 2018 (the "Application"). The Landlord has applied for an order of possession based on an undisputed One Month Notice to End Tenancy for Cause, dated November 15, 2017 (the "One Month Notice"), pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord was represented at the hearing by A.W., an agent. The Tenant attended the hearing in person and was assisted by G.P.

The Landlord testified that the Tenant was served with the Application package by posting a copy to the door of the Tenant's rental unit on January 18, 2018. Pursuant to sections 89 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. I find the Application package is deemed to have been received by the Tenant on January 21, 2018.

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.

Issue to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord submitted a copy of the tenancy agreement between the parties into evidence. It confirmed the tenancy began on February 1, 2017. Currently, rent in the amount of \$375.00 is due on the first day of each month. The Tenant paid a security deposit in the amount of \$300.00, which the Landlord holds.

The Landlord sought an order of possession based on the One Month Notice, which had an effective date of December 31, 2017. The Landlord confirmed the One Month Notice was served on the Tenant by attaching a copy to the door of the Tenant's rental unit on November 15, 2017. A Proof of Service document was submitted into evidence, which confirmed service in this manner was witnessed by J.P.

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. 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. 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 Landlord testified the One Month Notice was served on the Tenant by attaching a copy to the door of the Tenant's rental unit on November 15, 2017. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. I find the Tenant is deemed to have received the One Month Notice on November 18, 2018. Accordingly, the Tenant had until November 28, 2017, to dispute the One Month Notice by filing an application for dispute resolution. The Tenant did not. As a result, and pursuant to section 47(5) 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. Accordingly, I find the Tenant is over holding and the Landlord is entitled to an order of possession, which will be effective two (2) days after service 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.

These findings and my orders were explained to the Tenant during the hearing.

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: March 13, 2018

Residential Tenancy Branch