



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This is the Landlord's Application for Dispute Resolution seeking an Order of Possession.

The Landlord DD and his son SD both attended the Hearing, which took place by teleconference at 11:00 a.m. on March 9, 2018. The Hearing concluded at 11:30 a.m. The line remained open while the phone system was monitored for the duration of the Hearing and no participant called into the Hearing on behalf of the Tenant.

DD and SD both gave affirmed testimony at the Hearing.

DD testified that he posted the Notice of Hearing documents to the Tenant's door on February 5, 2018. Based on DD's affirmed testimony, I find that the Tenant was duly served with the Notice of Hearing documents, pursuant to the provisions of Section 89 of the Act. Service in this manner is deemed to be effective 3 days after posting the documents to the Tenant's door. The Hearing continued in the Tenant's absence.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession based on the Notice to End Tenancy for Cause issued December 18, 2017?

Background and Evidence

DD and SD gave the following testimony:

The rental unit is a basement suite in the Landlord's home.

This tenancy began on April 1, 2017. Monthly rent is \$850.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$440.00 at the beginning of the tenancy.

DD attached the Notice to End Tenancy for Cause to the Tenant's door on December 18, 2017, with SD as his witness. The Notice indicates the following reason for ending the tenancy:

Tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The Tenant is unreasonably disturbing the Landlord by leaving garbage outside the rental unit and by making significant noise. The Landlord has called the police on more than one occasion. The Police attended and told the Landlord that the Tenant is a hoarder, and described the rental unit as being in horrible condition and may be a health hazard. The Tenant will not allow the Landlord to inspect the rental unit and has changed the locks without the Landlord's permission. The Tenant will not give the Landlord a copy of the key to the rental unit.

Analysis

I accept the Landlord's undisputed affirmed testimony in its entirety.

Further to the provisions of Section 90(c) of the Act, I find that the Tenant was deemed to have been served with the Notice to End Tenancy for Cause on December 21, 2017.

Therefore, I find that the effective date of the Notice is January 31, 2018.

Section 47(4) and (5) of the Act provides:

(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.

[Reproduced as written.]

The Tenant did not make application to cancel the Notice to End Tenancy and therefore I find that the Tenant is conclusively presumed to have accepted that the tenancy ended on January 31, 2018. The Tenant is overholding and I find that the Landlord is entitled to an Order of Possession.

Conclusion

I hereby provide the Landlord with an **Order of Possession effective 2 DAYS after service of the Order upon the Tenant.** This Order may be filed in the Supreme Court of British Columbia for enforcement.

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 11, 2018

Residential Tenancy Branch