



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, for compensation for loss or damage under the Act, regulations or tenancy agreement and to recover the filing fee.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on February 5, 2018. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenant in attendance.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Has the Landlord had a loss or damage caused by the Tenant?
3. Is the Landlord entitled to compensation for a loss or damage and if so how much?

Background and Evidence

This tenancy started on February 2014 as a month to month tenancy. Landlord said the rent is \$1,000.00 per month and the Tenant said the rent was \$800.00 per month for part of the tenancy. Rent was payable on the 1st day of each month. No security deposit was required for this tenancy.

The Landlord said she issued a 1 Month Notice to End Tenancy for Cause dated December 16, 2017 by personal delivery to the Tenant on December 16, 2017. The Notice to End Tenancy has an effective vacancy date of January 31, 2018 on it.

The Tenant said she has not made an application to dispute the 1 Month Notice to End Tenancy for Cause and she is not disputing the Notice at this hearing. The Tenant said she is moving out of the rental unit as soon as she can find a new rental.

The Tenant continued to say that she does not owe the Landlord any unpaid rent as the Landlord lent her \$200.00 a month off the rent until she received a settlement on an ICBC situation. The Tenant said she does not have any unpaid rent.

The Landlord agreed the money was lent to the Tenant and there is a promissory note attached to the tenancy agreement. The Landlord said she agreed to reduce the rent by \$200.00 per month as a loan to the Tenant.

Analysis

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 Tenant is deemed to have received the Notice to End Tenancy on the day it was served, or on December 16, 2017. Consequently, the Tenant would have had to apply to dispute the Notice by December 28, 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.

Further as the Landlord and Tenant agree the money owed to the Landlord by the Tenant is a loan, I find the Residential Tenancy Act has no jurisdiction over loan arrangements between people. The Landlord may want to consult a lawyer about other potential remedies for the loan situation.

I also find that as the Landlord was only partially successful in this matter, I order the Landlord to bear the cost of the filing fee of \$100.00 which is already paid.

Conclusion

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

Residential Tenancy Branch