



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CANADIAN MENTAL HEALTH ASSOCIATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution ("application") under the *Residential Tenancy Act* ("Act") to obtain an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated January 22, 2018 ("1 Month Notice").

An agent for the landlord ("agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally and ask questions about the hearing process. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence were served on the tenant by personal service on March 16, 2018. In support, the agent submitted a copy of a signed proof of service document signed by the tenant confirming that the tenant was personally served on March 16, 2018 as indicated by the agent.

Based on the above, I find the tenant was served with the Notice of Hearing, application and documentary evidence on March 16, 2018 based on the evidence before me. As the tenant did not attend the hearing, and the agent confirmed that the tenant continues to occupy the rental unit, I find that the landlord's application is undisputed and unopposed by the tenant.

Preliminary and Procedural Matters

The agent confirmed the email address for the agent at the outset of the hearing. The agent was advised that the landlord would receive the decision by email and that any applicable orders would be emailed to the landlord. The tenant shall receive the decision by regular mail.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until for ten minutes in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. Pacific Time on Wednesday, May 9, 2018. The agent attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the agent and I were the only ones who had called into this teleconference.

Issue to be Decided

- Is the landlord entitled to an order of possession based on an undisputed 1 Month Notice?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on November 7, 2017 and is scheduled to revert to a month to month tenancy as of May 31, 2018.

The agent testified that the tenant was served personally in the multi-purpose room on January 22, 2018 with the 1 Month Notice alleging three causes and that the tenant did not dispute the 1 Month Notice. The effective vacancy date listed on the 1 Month Notice was February 28, 2018 which has passed.

The agent stated that the tenant continues to occupy the rental unit and that the landlord has not accepted any money for use and occupancy of the rental unit for May 2018.

Analysis

Based on the undisputed documentary evidence of the landlord and undisputed testimony provided by the agent during the hearing, and on the balance of probabilities, I find the following.

Order of possession - I find that the tenant did not dispute the 1 Month Notice within 10 days after being served with the 1 Month Notice on January 22, 2018. The effective vacancy date of the 1 Month Notice is listed as February 28, 2018. Section 47 of the *Act* indicates that when a tenant does not dispute a 1 Month Notice, they are conclusively presumed to have accepted that the tenancy ends on the effective vacancy date. Therefore, I find the tenancy ended on February 28, 2018. Therefore, I grant the landlord an order of possession pursuant to section 55 of the *Act* effective **two (2) days after service on the tenant**.

Conclusion

The landlord's application is fully successful. The tenancy ended on February 28, 2018.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: May 9, 2018

Residential Tenancy Branch