



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

Introduction

On April 16, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) requesting an Order of Possession for the rental unit, and to recover the cost of the Filing Fee. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 24-minute hearing. The Landlord SA testified that the Notice of Hearing was sent to the Tenant by both regular and registered mail on April 23, 2018. Landlord SA provided the tracking number for the registered mail and advised that, regardless of a Canada Post notice card being left at the Tenant’s door, the Notice of Hearing package was not picked up by the Tenant. The status of the regular mail is unknown. I find that the Tenant is deemed to have received the Notice of Hearing on April 28, 2018, in accordance with Sections 89 and 90 of the Act.

Both parties representing the Landlord were provided the opportunity to present their affirmed testimony, written and documentary evidence and to make submissions at the hearing. 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.

Issues to be Decided

Should the Landlord be granted an Order of Possession for the rental unit?

Should the Landlord be reimbursed for the Filing Fee?

Background and Evidence

Landlord DL testified that the Tenant and the Landlord had a written Tenancy Agreement that began on June 1, 2016 on a month-to-month basis. The Tenant paid a subsidized rent of \$375.00 per month and this rent was automatically deposited on the

first of each month. The Landlord currently held a security deposit of \$187.50 and the Tenant was currently occupying the rental unit.

Landlord SA testified that one of her co-workers, an agent working for the Landlord, posted a One Month Notice to End Tenancy for Cause, dated March 14, 2018, (the "Notice") on the Tenant's door. Landlord DL stated that he was present during the posting of the Notice and, about thirty minutes later, observed the Tenant remove the Notice from his front door and take it into his rental unit. The effective vacate date on the Notice was noted as April 30, 2018.

Landlord DL stated that the Notice was issued as a result of several incidents where the Tenant significantly interfered and unreasonably disturbed other occupants within the rental property and, further, where the Tenant caused extraordinary damage to the property. Landlord DL testified about the Tenant's aggressive behaviour towards the staff in the social housing site and of an incident, caught on video, where the Tenant caused approximately \$2,000.00 of damage to the automated gate system on the rental property.

Analysis

I accept the undisputed evidence of Landlord DL and SA that the Notice was posted on the door of the Tenant's rental unit and on the same day, was picked up by the Tenant. I find that the Tenant was deemed to be served the Notice on March 14, 2018.

Section 47(4) of the Act states that a Tenant may dispute a Notice by making an Application for Dispute Resolution within 10 days after the date the Tenant receives the Notice. Section 47(5) of the Act states that if a Tenant who has received a Notice does not make an Application for Dispute Resolution in accordance with Subsection (4), the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date.

As I have found that the Notice was deemed served on the Tenant on March 14, 2018, and that there is no evidence before me that the Tenant had applied for Dispute Resolution within 10 days or applied for more time to cancel the Notice, I find that the Tenant is conclusively presumed to have accepted the end of his tenancy for April 30, 2018.

Furthermore, I accept the undisputed evidence presented by the Landlord DL and SA and if the tenancy was being decided strictly on Section 47(1) of the Act, I would have ended the tenancy as a result of the Tenant unreasonably disturbing other occupants

within the rental property and causing extraordinary damage to the property. Therefore, I find the Landlord has proven they have cause to end the tenancy and the Notice is valid. For all of these reasons, the tenancy is ending.

As the Tenant is currently occupying the rental unit and has paid rent for the month of May, I authorize an Order of Possession for the Landlord to be effective on May 31, 2018 at 1:00 p.m.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

I am granting the Landlord an Order of Possession to be effective on May 31, 2018 at 1:00 p.m. The Order of Possession should be served on the Tenant as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I am authorizing the Landlord to deduct the \$100.00 Filing Fee from the Tenant's security deposit.

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: May 15, 2018

Residential Tenancy Branch