



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RAINCITY HOUSING AND SUPPORT SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

On May 7, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) requesting an Order of Possession for Cause for the rental unit. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend during the 15-minute hearing. The Landlord testified that he witnessed one of his staff personally served the Tenant with the Notice of Hearing by hand delivering a copy to the Tenant at the rental unit on May 10, 2018. I find that the Tenant has been duly served with the Notice of Hearing in accordance with Section 89 and 90 of the Act.

The Landlord was provided the opportunity to present his affirmed evidence orally and in written and documentary form, 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.

Issue to be Decided

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

Background and Evidence

The Landlord forwarded a copy of the Tenancy Agreement that indicates the Tenant has lived in the rental unit since November 28, 2012 and pays \$375.00 per month on a month-to-month basis.

The Landlord provided the following undisputed testimony:

The Landlord has been having some difficulties with the Tenant regarding the condition of the rental unit, a large amount of stored items and subsequently, issues about gaining access for repairs, pest control and cleaning. The Landlord forwarded a copy of one of the warning letters that the Landlord has delivered to the Tenant asking her to address these issues.

As a result of the Tenant not complying with the warning letters, the Landlord served a One Month Notice to End Tenancy for Cause, dated March 28, 2018 (the "Notice") to the Tenant by leaving a copy with the Tenant on the same date. The Notice had an effective vacancy date of April 30, 2018.

The Tenant has not disputed the Notice, nor has she vacated the rental unit. The Landlord is requesting an Order of Possession for the end of June 2018 as the Tenant has paid rent to occupy the rental unit for the month of June 2018.

Analysis

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.

I accept the Landlord's undisputed testimony and evidence and find that the Tenant was served with the Notice on March 28, 2018. As there is no evidence before me that the Tenant 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 her tenancy on April 30, 2018.

Section 55 of the Act states a Landlord may request an Order of Possession of a rental unit when a Notice has been given by the Landlord, the Tenant has not disputed the Notice by making an Application for Dispute Resolution and the time for making that Application has expired. In these circumstances exist, the Arbitrator may grant an Order of Possession for the rental unit to the Landlord.

As the Tenant has been conclusively presumed to have accepted the end of her tenancy on April 30, 2018 and is still occupying the rental unit, I find that the Landlord should be granted an Order of Possession for the rental unit on June 30, 2018.

Conclusion

I am granting the Landlord an Order of Possession to be effective on June 30, 2018 at 1:00 p.m. 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.

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: June 18, 2018

Residential Tenancy Branch