



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPN

Introduction

This matter dealt with an application by the Landlord to end the tenancy and for an Order of Possession.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on June 15, 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?

Background and Evidence

This tenancy started on May 1, 2016 on a month to month basis. Rent is \$836.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$375.00 at the start of the tenancy.

The Landlord said he issued a 1 Month Notice to End Tenancy for Cause dated April 15, 2018, by personal delivery to the Tenant on April 15, 2018. The Notice to End Tenancy has an effective vacancy date of May 15, 2018 on it. The Landlord continued to say he issued the Notice to End Tenancy because he believes the Tenant has done illegal activities that have adversely affected the quiet enjoyment, safety and security of the Landlord. The Landlord said he believes the Tenant has been involved in theft of groceries from the Tenant's ex-wife. The Landlord said he wants to end the tenancy as soon as possible.

The Tenant said he has not made an application to dispute the Notice to End Tenancy or the Landlord's application and he would like to continue the tenancy. The Tenant said he did not steal his ex-wife's groceries and he is not involved in any illegal activities. The Tenant said he paid the rent in April 2018 so that should have re-instated the tenancy. The Tenant said the Landlord has not accepted rent for June and July 2018.

The Landlord said he accepted the April 2018 rent on April 1, 2018 and the Notice to End Tenancy was issued April 15, 2018. The Landlord said he has not accepted any rent for May, June and July 2018 as he issued a Notice to End Tenancy and he thought by accepting rent it might affect the Notice. The Landlord said he has not re-instated the tenancy.

The Landlord said he does not want to continue the tenancy and the Landlord requested an Order of Possession for as soon as possible.

The Tenant said in closing he would comply with the decision of the Arbitrator.

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 April 15, 2018. Consequently, the Tenant would have had to apply to dispute the Notice by April 25, 2018.

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 I accept the Landlord's testimony that he has not accepted rent payments since the Notice to End Tenancy dated April 15, 2018 was issued. Therefore the Landlord has not re-instated the tenancy.

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: July 23, 2018

Residential Tenancy Branch