



Dispute Resolution Services

Page: 1

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

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 April 30, 2018 ("1 Month Notice").

The agent for the landlord GS ("agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally. 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"), the application and documentary evidence were considered. The agent provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the tenant by personal service at the rental unit on or about July 17, 2018 which was witnessed by landlord agent RT. I find the tenant was duly served on or about July 17, 2018 based on the undisputed evidence before me.

Preliminary and Procedural Matter

The agent confirmed their email address at the outset of the hearing. The agent confirmed their understanding that the decision and any applicable orders would be emailed to the landlord and that the decision would be mailed to the tenant.

Issue to be Decided

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

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on October 23, 2013.

The agent stated that the 1 Month Notice was served personally on the tenant on April 30, 2018 at the rental unit address. The agent stated that the tenant did not file an application to dispute the 1 Month Notice.

The agent confirmed that money for “use and occupancy” for the rental unit for September 2018 was received by the landlord. The landlord provided copies of both pages of the 1 Month Notice in evidence.

The agent stated that the tenant continues to occupy the rental unit.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession – I accept the undisputed testimony of the agent that the tenant was served on April 30, 2018 with the 1 Month Notice and that the tenant did not file an application for dispute resolution to dispute the 1 Month Notice. Pursuant to section 47 of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, which was May 31, 2018.

Section 55 of the *Act* applies and states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

(a) **the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

[My emphasis added]

Given the above, I have reviewed the 1 Month Notice and find that it complies with section 52 of the *Act*. I also find that it is not necessary to consider any of the grounds listed in the 1 Month Notice as the tenant did not dispute the 1 Month Notice.

The tenant continues to occupy the rental unit. Pursuant to section 55 of the *Act*, **I grant the landlord an order of possession effective September 30, 2018 at 1:00 p.m.** which must be served on the tenant. The date of September 30, 2018 was used as the agent confirmed that money for use and occupancy was received for September 2018. The agent stated that the landlord is not seeking the recovery of the cost of the filing fee.

Conclusion

The landlord's application is fully successful. I find the tenancy ended on May 31, 2018 which was the effective date of the 1 Month Notice. The landlord is granted an order of possession effective September 30, 2018 at 1:00 p.m. 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: September 11, 2018

Residential Tenancy Branch