



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FF

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on September 18, 2018 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for cause; and
- an order granting recovery of the filing fee.

The Landlords were represented at the hearing by B.D., the Landlords' son and agent. S.D. also attended the hearing but did not provide testimony. The Tenant attended the hearing on her own behalf. Both B.D. and the Tenant provided affirmed testimony.

The Tenant acknowledged receipt of the Landlords' Application package and documentary evidence. No issues were raised with respect to these documents during the hearing. Pursuant to section 71 of the *Act*, I find these documents were sufficiently served for the purposes of the *Act*.

The Tenant did not submit documentary evidence in response to the Application.

B.D. and the Tenant were provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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

1. Are the Landlords entitled to an order of possession for cause?
2. Are the Landlords entitled to recover the filing fee?

Background and Evidence

The parties confirmed the tenancy began on June 8, 2017. Rent in the amount of \$1,300.00 per month is due on the first day of each month. The Tenant paid a security deposit in the amount of \$600.00, which the Landlords hold.

The Landlords issued a One Month Notice to End Tenancy for Cause, dated September 6, 2018 (the "One Month Notice"), a copy of which was submitted into evidence. The parties agreed the One Month Notice was served on and received by the Tenant on September 6, 2018. The Tenant acknowledged during the hearing that the One Month Notice was not disputed within 10 days after receipt, or at all.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

The Landlords sought an order of possession based on the One Month Notice. I find the One Month Notice was received by the Tenant in person on September 6, 2018.

Section 47(4) of the *Act* stipulates that a tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by filing an application for dispute resolution. Section 47(5) of the *Act* confirms that failure to dispute a notice to end tenancy for cause results in the conclusive presumption the tenant accepted the tenancy ended on the effective date of the notice.

In this case, I have found that the Tenant received the One Month Notice on September 6, 2018. Therefore, pursuant to section 47(4) of the *Act*, the Tenant had until September 16, 2018, to dispute the One Month Notice by filing an application for dispute resolution. The Tenant acknowledged she did not dispute the One Month Notice. Accordingly, pursuant to section 47(5) of the *Act*, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the

One Month Notice. As a result, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. I order that the Landlord may retain \$100.00 from the security deposit held in satisfaction of the filing fee.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after it is served on the Tenant. The order of possession may be filed in 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: November 2, 2018

Residential Tenancy Branch