



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

Introduction

On September 20, 2018, the Landlord submitted an Application for Dispute Resolution seeking an order of possession for the rental unit based on the issuance of a One Month Notice to End Tenancy for Cause dated August 19, 2018, and to recover the filing fee for the Application.

The matter was set for a conference call hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and 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.

Issue to be Decided

- Is the Landlord entitled to an order of possession for the rental unit?

Background and Evidence

The Landlord and Tenant testified that the tenancy began on over 10 years ago. Rent in the amount of \$470.00 is to be paid to the Landlord by the first day of each month.

The Landlord testified that the Tenant is continually late paying the rent.

The Landlord issued the Tenant a One Month Notice to End Tenancy For Cause (“the 1 Month Notice”) dated August 19, 2018. The reason for ending the tenancy in the Notice is:

- Tenant is repeatedly late paying rent

With respect to the issue in the Notice regarding late payment of rent, section 47 of the Act states that a Landlord may end a tenancy by giving a Notice to end the tenancy if the Tenant is repeatedly late paying rent.

The Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. If a Tenant does not file an Application within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit or vacate the site by the date set out on page 1 of the Notice. If the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

The Landlord testified that he is seeking an order of possession for the rental unit. The Landlord also testified that the Tenant has not paid the rent for October 2018, or November 2018.

The Tenant testified that he received the 1 Month Notice on August 19, 2018. The Tenant testified that he did not dispute the Notice because he has not paid his rent on time. He testified that he has a medical issue and did not get paid from his employer.

The Tenant testified that he has not paid the rent owing for October 2018, and November 2018.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant received the One Month Notice on August 19, 2018 and did not dispute the Notice.

Pursuant to section 47(5) of the Act, I find that the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must vacate the rental unit.

I grant the Landlord an order of possession for the rental unit under section 55 of the Act

I find that the Landlord is entitled to an order of possession effective two (2) days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord had success in his application, I order the Tenant to pay the cost of the filing fee for this hearing. I grant the Landlord a monetary order in the amount of \$100.00.

Conclusion

The Tenant received a 1 Month Notice and failed to dispute the Notice. The Tenant is conclusively presumed to have accepted that the tenancy ended on September 30, 2018, the effective date of the Notice.

I grant the Landlord an order of possession effective effective two (2) days after service on the Tenant. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the Landlord a monetary order in the amount of \$100.00 for the cost of the filing fee.

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 05, 2018

Residential Tenancy Branch