



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GOYAL HOLDINGS CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

On October 31, 2018, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking recovery of the filing fee pursuant to Section 72 of the *Act*.

M.K. attended the hearing as agent for the Landlord. The Tenant did not attend the hearing. All in attendance provided a solemn affirmation.

M.K. advised that the Notice of Hearing package and evidence were served to the Tenant by registered mail (the registered mail tracking number is provided on the first page of this decision). Based on the undisputed testimony and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was deemed to have received the Landlord’s Notice of Hearing package and evidence.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord stated that the tenancy started on December 10, 2014 and that rent started at \$990.00 per month; however, he was not sure how much rent was currently established at. He advised that rent was due on the first of each month. As well, he stated that he is not sure how much of a security deposit was paid.

He advised that the Notice was served to the Tenant by being posted on his door on September 21, 2018. A signed proof of service form was submitted into evidence to corroborate this. The reason the Landlord served the Notice is because the "Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park." The effective date of the Notice was October 31, 2018.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

With respect to the Notice served to the Tenant on September 21, 2018, I have reviewed this Notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I find that this Notice meets all of the requirements of Section 52.

The Landlord's evidence is that the Notice was served on September 21, 2018 by being posted to the Tenant's door, and a signed proof of service form corroborated this. As per Section 90 of the *Act*, the Notice would have been deemed received after three days of being posted on the door. According to Section 47(4) of the *Act*, the Tenant has 10 days to dispute this Notice, and Section 47(5) of the *Act* states that "*If a tenant who has received a notice under this section 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.*"

After being deemed to receive the Notice, the tenth day fell on Thursday October 4, 2018 and the undisputed evidence is that the Tenant did not make an Application to dispute this Notice. I find it important to note that the information with respect to the Tenant's right to dispute the Notice is provided on the second page of the Notice.

Ultimately, as the Tenant did not dispute the Notice, I am satisfied that the Tenant is conclusively presumed to have accepted the Notice. As such, I find that the Landlord is entitled

to an Order of Possession. I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant.

As the Landlord was successful in this application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to retain \$100.00 from the security deposit, if they choose to do so, in satisfaction of the debt outstanding. If there is no security deposit, I grant the Landlord with a conditional Monetary Order in the amount of **\$100.00**.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. This order must be served on the Tenant by the Landlord. 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.

The Landlord is provided with a conditional Monetary Order in the amount of **\$100.00** in the above terms, if there is no security deposit. The Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: December 7, 2018

Residential Tenancy Branch