



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

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

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on November 7, 2018. The Landlord provided Canada Post tracking information and he said the package went to the Tenant's correct address. I accept the Landlord's service of the Hearing Package and documents as required by s. 89 of the Act.

Issues(s) to be Decided

Landlord:

1. Does the Landlord have grounds to end the tenancy?
2. Is the Landlord entitled to an Order of Possession?

Background and Evidence

This tenancy started on November 1, 2017 as a month to month tenancy. Rent is \$650.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$325.00 at the start of the tenancy.

The Landlord said he issued a 1 Month Notice to End Tenancy for Cause dated September 26, 2018 by posting Notice on the Tenant's door on September 26, 2018. The Landlord submitted a Proof of Service signed by a witness that the 1 Month Notice to End Tenancy for Cause was served correctly. The Notice to End Tenancy has an effective vacancy date of October 31, 2018. The Landlord continued to say he issued the Notice to End Tenancy because there have been a number of disturbances caused

by the Tenant. The Landlord said the Police have been call numerous times to deal with the Tenant. The Landlord said that he is not sure, but the Tenant may be incarcerated now. The Landlord said he is requesting an Order of Possession to end the tenancy in order to protect the other occupants in the rental complex.

The Tenant did not attend the hearing and there is no evidence that the Tenant made an application to dispute the 1 Month Notice to End Tenancy for Cause dated September 26, 2018 within the 10 day time limit given under the Act.

Analysis

Section 47 of the Act says:

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) 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

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy three days it was posted on the Tenant's door, or on September 29, 2018. Consequently, the Tenant would have had to apply to dispute the Notice by October 9, 2018.

I find that the Tenant has not made an application to dispute the Notice to End Tenancy nor did the Tenant attend the hearing. 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.

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: December 11, 2018

Residential Tenancy Branch