



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WIDSTEN PROPERTY MANAGEMENT
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNDCL, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for an Order of Possession based on a One Month Notice to End Tenancy for Cause (the “One Month Notice”), for monetary compensation, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing, while no one attended the hearing for the Tenant. The Landlord was affirmed to be truthful in his testimony and confirmed that the Tenant was served with the Notice of Dispute Resolution Proceeding package and a copy of their evidence by registered mail.

The registered mail tracking number was submitted into evidence and is included on the front page of this decision. The tracking information confirms that the package was delivered. The Landlord stated that they also posted a copy of the documents on the Tenant’s door to ensure they were received. As such, I find that the Tenant was duly served in accordance with Sections 88 and 89 of the *Act*.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matters

During the hearing, the Landlord stated that he is withdrawing the monetary claim on the Application for Dispute Resolution at this time. Therefore, this decision will address the Landlord's claim for an Order of Possession as well as the recovery of the filing fee.

Pursuant to Section 64(3)(c) of the *Act*, the application was amended to remove the Landlord's claim for monetary compensation.

Issues to be Decided

Is the Landlord entitled to an Order of Possession?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Landlord provided undisputed testimony on the tenancy which was also confirmed by the tenancy agreement. The tenancy began on June 1, 2018. Monthly rent in the amount of \$1,000.00 is due on the first day of each month. A security deposit of \$500.00 was paid at the outset of the tenancy.

The Landlord testified that on November 19, 2018 the Tenant was served with a One Month Notice by posting the notice on the Tenant's door. The Landlord submitted a proof of service form signed by a witness which confirms service of the One Month Notice on November 19, 2018.

The One Month Notice was submitted into evidence and states that following as the reason for ending the tenancy:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

Further details were provided on the notice as follows:

Tenant fails to comply with continued contraventions of the strata bylaws despite warnings from our office and the strata management company. Fines are being imposed by the strata for failing to abide.

(Reproduced as written)

Letters from the strata corporation as well as warning letters from the Landlord to the Tenant were included as documentary evidence. The Landlord stated that they did not receive any notification that the Tenant had applied to dispute the One Month Notice.

The effective end of tenancy date of the One Month Notice was stated as December 31, 2018. The Landlord is seeking an Order of Possession as the Tenant is still residing in the rental unit.

Analysis

Based on the undisputed testimony and evidence of the Landlord, I find as follows:

The Landlord served the Tenant with a One Month Notice pursuant to Section 47(1)(h) of the *Act*. As stated in Section 47(4) of the *Act*, a tenant has 10 days in which to dispute a One Month Notice. I accept the evidence and testimony of the Landlord that the notice was served on the Tenant's door on November 19, 2018.

I have no evidence before me that the Tenant applied to dispute the One Month Notice. As such, I find that Section 47(5) applies:

(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.

As the Tenant did not dispute the notice, I find that she is conclusively presumed to have accepted that the tenancy has ended. Therefore, pursuant to Section 55(2) of the *Act*, I find that the Landlord is entitled to an Order of Possession. The Landlord is granted a two-day Order of Possession to be served on the Tenant.

As the Landlord was successful with the Application for Dispute Resolution, pursuant to Section 72 of the *Act*, I award the recovery of the filing fee 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. 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.

Pursuant to Section 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of \$100.00 for the recovery of the filing fee paid for the Application for Dispute Resolution. The Landlord is provided with this Order in the above terms and 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: January 25, 2019

Residential Tenancy Branch