



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution ("application") under the *Residential Tenancy Act* ("Act") to obtain an Order of Possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated November 30, 2018 ("1 Month Notice").

The agent RT ("agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), the application and documentary evidence were considered. The agent provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on December 20, 2018. The agent stated that the package was addressed to the tenant at the rental unit address and was eventually returned as "unclaimed" which is supported by the online Canada Post registered mail tracking website. The registered mail tracking number has been included on the cover page of this decision for ease of reference. Section 90 of the *Act* states that documents served by registered mail are deemed served five days after they are mailed. Therefore, I find the tenant was deemed served as of December 25, 2018.

As the tenant did not attend this hearing, I consider this matter to be unopposed by the tenant. The hearing continued without the tenant present as a result as I am satisfied the tenant was sufficiently served in accordance with the *Act*.

Preliminary and Procedural Matter

The agent confirmed the landlord's email address at the outset of the hearing. The agent also confirmed their understanding that the decision would be emailed to the landlord and that any applicable orders would also be emailed. The tenant will be sent the decision by regular mail as an email address was not provided for the tenant.

Issue to be Decided

- Is the landlord entitled to an order of possession for cause under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on August 18, 2018. The agent confirmed service of the 1 Month Notice by personally serving the tenant at the rental unit address on October 30, 2018. The agent made an error by dating the 1 Month Notice as November 30, 2018.

The 1 Month Notice had an effective vacancy date of November 30, 2018, which automatically corrects under section 53 of the *Act* to December 31, 2018, due to the error on the 1 Month Notice with the issue date being November 30, 2018. The agent stated that the tenant did not dispute the 1 Month Notice and that the landlord is unsure if the tenant continues to occupy the rental unit. A copy of the 1 Month Notice was submitted in evidence. The landlord is seeking an Order of Possession as the landlord remains unsure if the tenant continues to occupy the rental unit.

Analysis

Based on the landlord's undisputed documentary evidence and the agent's undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession - I find that the tenant was served with the 1 Month Notice on October 30, 2018, which is the date the agent stated the tenant was served at the rental unit address. I also accept that the tenant did not dispute the 1 Month Notice within 10 days of receiving the 1 Month Notice. Pursuant to section 47 of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the corrected effective vacancy date of the 1 Month Notice, which I find was December 31, 2018.

Pursuant to section 55 of the *Act*, I grant the landlord an order of possession **effective two (2) days** after service on the tenant. I find the tenancy ended on December 31, 2018.

Conclusion

The landlord's application is successful.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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