



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PENDER LODGE HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an Order of Possession pursuant to section 55; and,
- reimbursement of the filing fee for this application pursuant to section 72.

The landlord attended the hearing. The landlord had full opportunity to provide affirmed testimony, present evidence, cross examine the other party, and make submissions.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled hearing time for duration of the hearing to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code was provided to the tenant.

The landlord testified the tenant served the landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on March 15, 2019 and deemed received by the tenant five days later, on March 20, 2019, under section 90 of the *Act*. The landlord provided the Canada Post tracking number in support of service referenced on the first page of the decision. Based on the undisputed testimony of the landlord, I find the landlord served the tenant with the dispute application documents pursuant to section 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession pursuant to section 55?

Is the landlord entitled to reimbursement of the filing fee for this application pursuant to section 72?

Background and Evidence

The landlord testified that they issued a One Month Notice to End Tenancy for Cause (the “One Month Notice”) on February 27, 2019. The landlord testified that the One Month Notice was posted on the tenant’s door on February 27, 2019 with a stated move out date of March 30, 2019. The One Month Notice stated that the landlord was seeking an end to the tenancy for the following reasons:

- The tenant or a person permitted on the property by the tenant has
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord.
 - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
 - Put the landlord’s property at significant risk.
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - Damage the landlord’s property.
 - Adversely affect the quiet enjoyment, security, safety or physical well-being of the other occupant
 - Jeopardize a lawful right or interest of another occupant or the landlord.
- Break of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord testified that the tenant has not filed an application to dispute the One Month Notice.

Analysis

Pursuant to section 47(4) of the *Act*, a tenant has ten days after receipt of a notice to end a tenancy for cause to dispute the notice. In this matter, the One Month Notice was served on the tenant by posting the notice on his door on February 27, 2019. Pursuant to section 90 of the *Act*, a notice posted on a door is deemed to have been served three days later, being March 2, 2019. Accordingly, the tenant had ten days after the effective date of service of March 2, 2019 to dispute the notice, being March 12, 2019. However, the tenant has not filed an application to dispute the notice and the deadline to do so has lapsed.

Section 47(5) of the *Act* states that a tenant who does not timely file an application to dispute a notice to end tenancy for cause 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.

Since the tenant did not timely file an application to dispute the landlord's One Month Notice, I find that the tenant is conclusively presumed to have accepted that this tenancy ended on the effective date of the notice, being April 30, 2019.

I find the form and content of the One Month Notice does comply with section 52 of the *Act*. Accordingly, I find the landlord is entitled to an order of possession pursuant to section 55 effective two days after service on the tenant.

Since the landlord has prevailed in this matter, I grant the landlord's application for reimbursement of the \$100.00 filing fee pursuant to section 72 of the *Act*.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I grant the landlord a monetary order in the amount of **\$100.00**. If the tenant fails to comply with this order, the landlord may file the order in the Provincial Court to be 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: May 03, 2019

Residential Tenancy Branch