



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing dealt was convened as the result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession of the rental unit pursuant to a 1 Month Notice to End Tenancy for Cause (the "Notice") issued to the tenants and for recovery of their filing fee paid for this application.

The landlord attended the hearing; the tenants did not attend.

The landlord testified that she served the tenants with the Application for Dispute Resolution and Notice of Hearing by registered mail on May 9, 2019, in two separate packages. The landlord supplied the receipts showing the tracking numbers of the registered mail, as reflected on the style of cause page in this decision and said they were mailed to the rental unit address.

Based upon the submissions of the landlord, I accept the tenants were served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit and for recovery of their filing fee paid for this application?

Background and Evidence

The landlord submitted that a written tenancy agreement showing this tenancy began on July 10, 2018, that monthly rent is \$1,800.00 and that the tenants paid a security deposit of \$900.00.

The landlord submitted evidence that the tenants were served the Notice, dated April 19, 2019, via registered mail on that date, listing an effective end of tenancy date of May 31, 2019. The landlord submitted a copy of the Canada Post receipt showing the tracking number of the registered mail and the Notice.

The landlord submitted that the tenants were additionally served the Notice by hand delivering the document to a friend of the tenants who answered the door.

The Notice served on the tenants sets out that the tenants had ten (10) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenants did not file such application within ten days, then the tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice, in this case May 31, 2019.

The causes as stated on the Notice alleged that the tenants have allowed an unreasonable number of occupants in the rental unit. The landlord submitted that the tenants have not vacated the rental unit.

The landlord's relevant evidence included documentary, video, and photographic evidence supporting the cause listed on the Notice.

I have no evidence before me that the tenants filed an application in dispute of the Notice.

Analysis

I have reviewed all the evidence and accept that the tenants have been served with the Notice as declared by the landlord. Absent evidence to the contrary, the Notice was deemed received by the tenant five (5) days after the Notice was served via registered mail on April 19, 2019, pursuant to section 90 of the Act. I also find no evidence that the tenants applied to dispute the Notice.

As such, I therefore find the tenants are conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and that the landlord is entitled to an order of possession for the rental unit on that effective date of May 31, 2019.

I grant the landlord a final, legally binding order of possession for the rental unit, pursuant to section 55(2)(a) of the Act, effective two (2) days after service upon the tenants. If the tenants fail to vacate the rental unit pursuant to the terms of the order after being served with it, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

As to the landlord's request for recovery of her filing fee, I direct the landlord to retain the amount of \$100.00 in satisfaction of her request.

Conclusion

The landlord's application for an order of possession of the rental unit is granted, effective two (2) days after service upon the tenants.

The landlord is directed to retain \$100.00 from the tenants' security deposit for recovery of her filing fee.

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: June 20, 2019

Residential Tenancy Branch