



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on June 17, 2019 (the "Application"). The Landlord applied for an order of possession based on an undisputed One Month Notice to End Tenancy for Cause, dated May 15, 2019 (the "One Month Notice"), pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord was represented at the hearing by M.R. and D.J., agents, who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, M.R. testified the Application package was served on the Tenant by registered mail on June 24, 2019. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. I find the Application package is deemed to have been received by the Tenant on June 29, 2019.

The Landlord's agents were provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirms the tenancy began on October 16, 2018. Rent is due in the amount of \$375.00 per month. The Tenant paid a security deposit in the amount of \$187.50, which the Landlord holds.

The Landlord requests an order of possession based on the undisputed One Month Notice. M.R. testified the One Month Notice was served on the Tenant by posting a copy to the door of the Tenant's rental unit on May 15, 2019. On behalf of the Landlord, M.R. testified he is unaware of any application for dispute resolution being filed by the Tenant. The Tenant continues to occupy the rental unit.

Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 47(4) of the *Act* confirms that a tenant who receives a notice under this section has 10 days to dispute it by making an application for dispute resolution. Pursuant to section 47(5) of the *Act*, failure to do so results in the conclusive presumption that the tenant accepted the tenancy ends on the effective day of the notice and that the tenant must vacate the rental unit by that date.

In this case, I find the Landlord served the Tenant with the One Month Notice by posting a copy to the door of the Tenant's rental unit on May 15, 2019. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 3 days later. Therefore, I find the One Month Notice is deemed to have been received by the Tenant on May 18, 2019. Further, I find it is more likely than not that the Tenant did not dispute the One Month Notice by making an application for dispute resolution within 10 days after receipt, pursuant to section 47(4) of the *Act*.

The One Month Notice indicates an incorrect effective date of June 17, 2019. However, section 53 of the *Act* confirms that incorrect effective dates are deemed to be corrected to the earliest date that complies with the section. In this case, the corrected effective date is June 30, 2019. In any event, the Tenant continues to occupy the rental unit. Therefore, I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenant.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be retained from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after it is served on the Tenant. The order may be filed in and enforced as an order of 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: August 9, 2019

Residential Tenancy Branch