



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUTTON MAX REALTY and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (“application”) seeking remedy under the *Residential Tenancy Act* (“Act”) by the landlord to obtain an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated June 11, 2019 (“1 Month Notice”) and to recover the cost of the filing fee.

Three agents for the landlord SM, SJ and WM (“agents”) appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agents were 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 matters before me.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding (“Notice of Hearing”), the application and documentary evidence were considered. The agents provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on July 19, 2019. The registered mail tracking number has been included on the cover page of this decision for ease of reference and is identified as “1”. The Canada Post registered mail tracking website confirmed the above information during the hearing and that the tenant signed for and accepted the registered mail package on July 23, 2019. Based on the evidence and undisputed testimony before me, I accept that the tenant was sufficiently served on July 23, 2019, the date the registered mail package was signed for and accepted by the tenant.

Given the above I consider this matter to be unopposed by the tenant.

Preliminary and Procedural Matter

The agents confirmed their email addresses at the outset of the hearing. The agents also confirmed their understanding that the decision would be emailed to the landlord and that any applicable orders would be sent by email for service on the tenant. The decision will be sent to the tenant by regular mail as the agents did not have an email address for the tenant.

Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

The agents affirmed that a fixed-term tenancy began on March 1, 2019. The agents stated that monthly rent was \$500.00 per month and the tenant did not pay a security deposit or pet damage deposit.

The landlord submitted a copy of the 1 Month Notice in evidence. The agents testified that the 1 Month Notice served on the tenant by registered mail. The tracking number for the registered mail has been included on the cover page of this decision for ease of reference and is identified as “2”. According to the Canada Post online registered tracking website, the tenant signed for and accepted the 1 Month Notice package on June 13, 2019. Accordingly, I find the tenant was served with the 1 Month Notice on June 13, 2019.

The effective vacancy date listed on the 1 Month Notice is listed July 31, 2019, which has passed. The landlord listed a total of three causes on the 1 Month Notice and completed the “Details of Dispute” section of the 1 Month Notice. According to the agents, the tenant did not dispute the 1 Month Notice and continues to occupy the rental unit while the landlord suffers a loss of rent. The landlord is seeking a two-day order of possession plus the recovery of the cost of the filing fee. During the hearing, the agents also confirmed that the tenant has not paid any money for use and occupancy for the month of September 2019.

Analysis

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

Order of Possession – Firstly, as the tenant was served and did not attend the hearing, I find that this application is undisputed by the tenant. Secondly, section 47 of the *Act* states that if the tenant does not dispute the 1 Month Notice within ten days of the date of service, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective vacancy date listed on the 1 Month Notice which in the matter before me was July 31, 2019. As I have found that the 1 Month Notice was served on June 13, 2019, and the tenant did not dispute the 1 Month Notice, I find the tenancy ended on July 31, 2019, which is the effective vacancy date listed on the 1 Month Notice. Accordingly, I grant the landlord an order of possession pursuant to section 55 of the *Act* effective **two (2) days** after service on the tenant.

As the landlord has succeeded with their application, I grant the landlord the recovery of the **\$100.00** filing fee. As the tenant did not pay a security deposit or pet damage deposit, I grant the landlord a monetary order of \$100.00 pursuant to sections 67 and 72 of the *Act*.

Conclusion

The landlord's application is fully successful.

I find that the landlord has proven their claim and is granted an order of possession effective two (2) days after service upon the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been granted a monetary order of \$100.00 pursuant to sections 67 and 72 of the *Act* for the recovery of the cost of the filing fee. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The decision and orders will be emailed to the landlord. The decision will be sent by regular mail to the tenant as an email address was not available for the tenant.

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: September 10, 2019

Residential Tenancy Branch