



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, FF

Introduction

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

- an order of possession for cause pursuant to section 55;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord's agents (the landlord) attended the hearing via conference call and provided testimony. The landlord stated that the Notice of Hearing Package and the submitted documentary evidence were served on the tenant via Canada Post Registered Mail on July 19, 2019. The landlord has submitted a copy of a Canada Post Customer Receipt Tracking label as confirmation. The landlord also stated that the tenant was also served in person by the landlord's agent on July 19, 2019 to an adult female at the rental unit. The tenant did not attend or submit any documentary evidence. I accept the undisputed evidence of the landlord and find that the tenant was properly served as per sections 88 and 89 of the Act. Although the tenant failed to attend, the tenant is deemed served as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on March 1, 2019 on a fixed term tenancy ending on August 31, 2019 as per the submitted copy of the signed tenancy agreement dated February 20, 2019. The monthly rent is \$500.00 payable on the 1st day of each month.

On June 11, 2019, the landlord served the tenant with the 1 Month Notice dated June 11, 2019. The 1 Month Notice sets out an effective end of tenancy date of July 31, 2019 and that it was being given as:

- the tenant has allowed an unreasonable number of occupants in the unit;
- the tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
- the tenant has caused extraordinary damage to the unit.

The details of cause listed on the notice state:

Without owner's authorization, the tenant has constructed a wall and damaged owner's property.

The landlord stated that the tenant was served with the 1 month notice dated June 11, 2019 via Canada Post Registered Mail on June 11, 2019 and has provided a copy of the Canada Post Customer Receipt and Tracking Label as confirmation. The landlord stated that as of the date of this hearing, the tenant has not applied to dispute the notice within the allowed 10 Day time limitation. The landlord seeks an order of possession.

Analysis

Pursuant to section 55 (2) (b) of the Act, the landlord is entitled to an order of possession when a landlord requests an order of possession of a rental unit by making an application for dispute when a notice to end tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

I accept the undisputed evidence of the landlord and find that a notice to end tenancy issued for cause was issued and served to the tenant via Canada Post Registered Mail on June 11, 2019 as confirmed by the submitted documentary evidence. I also find that

as of the date of this scheduled hearing which is beyond the allowed 10 day time limitation, the tenant has not applied for dispute of this notice. Pursuant to section 47 (5) the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit. As the effective date of that notice has now passed, I grant the landlord an order of possession to be effective 2 days after it is served upon the tenant.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted an order of possession.
The landlord is granted a monetary order for \$100.00.

These orders must be served upon the tenant. Should the tenant fail to comply with the orders, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as orders of those courts.

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: September 10, 2019

Residential Tenancy Branch