



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FFL

Introduction

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

- an Order of Possession for cause pursuant to section 55; and
- authorization to recover the filing fee for the application from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing. The Notice of Hearing was confirmed to provide the correct hearing information. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), dated June 12, 2019 was served on the tenant by registered mail sent on that date. The landlord submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant was deemed served with the 1 Month Notice on June 17, 2019, five days after mailing, in accordance with sections 88 and 90 of the *Act*.

The landlord testified that the landlord's application for dispute resolution dated July 16, 2019 was served on the tenant together with the evidentiary materials by registered mail sent on July 23, 2019. The landlord provided a valid Canada Post tracking receipt as evidence of service. Based on the evidence, I find that the tenant is deemed served with the landlord's application package in accordance with sections 88, 89 and 90 of the *Act*, on July 28, 2019, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This periodic tenancy began in April 2019. The monthly rent is \$2,150.00 payable on the first day of each month. A security deposit of \$1,075.00 was collected at the start of the tenancy and is held by the landlord. The tenant continues to occupy the rental unit.

The landlord testified that the tenant has allowed several additional occupants to reside in the rental unit without the landlord's permission, has allowed a large dog to occupy the rental unit without prior permission, have disrupted the quiet enjoyment of other occupants of the rental building by yelling and instigating fights and have littered the common area of the rental building with personal items.

The landlord said the tenant's behaviour has significantly interfered with and unreasonably disturbed the other occupants. The landlord testified that they issued the 1 Month Notice of June 12, 2019 and are unaware of the tenant applying for dispute resolution to cancel the 1 Month Notice.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenants are deemed served with the 1 Month Notice on June 17, 2019.

I find that the tenant has failed to file an application for dispute resolution within the 10 days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ends on the corrected effective date of the 1 Month Notice, July 31, 2019.

I find that the landlord's 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit, the effective date of the notice and the reasons for ending the tenancy. I am satisfied by the landlord's evidence, their documentary materials and testimony, that there is sufficient cause for this tenancy to end. Therefore, I find that the

landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*. As the effective date of the 1 Month Notice has passed, I issue a 2 day Order of Possession.

As the landlord's application was successful they are also entitled to recover the filing fee for this application from the tenants.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's \$1,075.00 security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The tenant's security deposit is reduced by \$100.00 from \$1,075.00 to \$975.00.

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 20, 2019

Residential Tenancy Branch