



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding E Y PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee.

The Landlord served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on September 5, 2019. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the absence of the Tenant.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on May 1, 1989 as a month to month tenancy. Rent is \$959.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$245.00 at the start of the tenancy.

The Landlord issued a 1 Month Notice to End Tenancy for Cause dated July 19, 2019 by personal delivery to the Tenant on July 19, 2019. The Notice to End Tenancy has an effective vacancy date of August 31, 2019 on it. The Landlord said they want to end the tenancy as soon as possible.

The Tenant did not make an application to dispute the One Month Notice to End Tenancy dated July 19, 2019 and the Tenant did not appear at the hearing.

Analysis

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a Tenant may apply for dispute resolution. If the Tenant fails to do this, then under section 47(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the day it was served in person, or on July 19, 2019. Consequently, the Tenant would have had to apply to dispute the Notice by July 29, 2019.

I find that the Tenant has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that as the Landlord was successful in this matter they are entitled to recover the filing fee of \$100.00 for this proceeding from the Tenant. I order the Landlord to retain \$100.00 from the Tenant's security deposit as full payment of the filing fee for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in 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: October 28, 2019

Residential Tenancy Branch