



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FF

This hearing dealt with the Landlords' Application for Dispute Resolution, made on October 18, 2019 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice to End Tenancy for Cause, dated October 4, 2019 (the "One Month Notice"); and
- an order granting recovery of the filing fee paid to make the Application.

The Landlord X.J.L. attended the hearing and provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlords, X.J.L. testified the Application package was served of the Tenant in person on October 18, 2019. In the absence of evidence to the contrary, I find the Application package was served on and received by the Tenant on that date.

X.J.L. was provided with a full 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.

Issues to be Decided

1. Are the Landlords entitled to an order of possession?
2. Are the Landlords entitled to recover the filing fee?

Background and Evidence

On behalf of the Landlords, X.J.L. confirmed the tenancy began on February 26, 2018. Rent is due in the amount of \$620.00 per month. The Tenant paid a security deposit in the amount of \$310.00, which the Landlords hold.

The Landlords requests an order of possession based on the undisputed One Month Notice. X.J.L. testified the One Month Notice was served on the Tenant by posting a copy to the door of the Tenant's rental unit on October 4, 2019. The Landlords testified they are unaware of any application for dispute resolution being filed by the Tenant related to the One Month Notice. The Tenant continues to occupy the rental unit.

Analysis

Based on the 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 Landlords served the Tenant with the One Month Notice by posting a copy to the door of the Tenant's rental unit on October 4, 2019. Pursuant to section 88 and 90 of the *Act*, documents served in this manner are deemed to be received 3 days later. I find the One Month Notice is deemed to have been received by the Tenant on October 7, 2019. Therefore, pursuant to section 47(4) of the *Act*, I find the Tenant had until October 17, 2019 to dispute the One Month Notice. However, 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.

The One Month Notice indicates an incorrect effective date of November 4, 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 November 30, 2019. In any event, the Tenant continues to occupy the rental unit. I find the Landlords have demonstrated an entitlement to an order of possession, which will be effective at 1:00 P.M. on November 30, 2019.

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

Conclusion

The Landlords are granted an order of possession, which will be effective at 1:00 P.M. on November 30, 2019. 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: November 19, 2019

Residential Tenancy Branch