



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1162538 B.C. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on January 13, 2020. The Landlord 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; and,
- to recover the filing fee from the tenant for the cost of this application.

The Landlord's Agent (the "Landlord") attended the hearing on behalf of the landlord. The Tenant did not attend the hearing. The Landlord stated he sent the Notice of Hearing and evidence to the Tenant by registered mail on November 23, 2019. Proof of mailing was provided into evidence. Pursuant to section 89 and 90 of the Act, I find the Tenant is deemed served with this package 5 days after it was mailed, November 28, 2019.

All parties were given a full opportunity to be heard, to present evidence and to make submissions. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to recover the filing fee from the tenant for the cost of this application?

Background and Evidence

The Landlord testified that he served the tenant, in person, with a One Month Notice to End Tenancy for Cause (the Notice), on September 9, 2019. Service of this document was witnessed by a third party, as per the Proof of Service document. The Landlord listed the effective date of the Notice as October 30, 2019.

The Landlord stated that they do not have a written tenancy agreement with the Tenant, but that he is required to pay them monthly rent in the amount of \$500.00 per month, due on the 1st of the month. The Landlord stated that the Tenant has been living there for a while, and has been living there since he bought the property over a year ago.

The Notice indicates several grounds for ending the tenancy.

Analysis

Based on the testimony and documentary evidence, and on a balance of probabilities, I find:

After reviewing the Notice, I am satisfied that it complies with section 52 of the *Act* [*form and content of notice to end tenancy*]. Section 47 of the *Act* permits a landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy, under section 47(5) of the *Act*.

In this case, the Landlord issued the Notice under several different grounds, as laid out on the Notice. Based on the Landlord's testimony and the Proof of Service document submitted, I am satisfied that the Landlord served the tenant with the Notice in person on September 9, 2019. I find the Tenant received the Notice that day.

The tenant had 10 days, until September 19, 2019, to dispute the notice, but did not do so. Accordingly, pursuant to section 47(5) of the *Act*, I find the tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of the Notice.

The Landlord is entitled to an order of possession, which will be effective **two days after service** on the tenant.

As the Landlord's application was successful, and pursuant to section 72 of the *Act* I grant the Landlord the recovery of the cost of the filing fee in the amount of **\$100.00**. I

authorize the landlord to retain \$100.00 from the Tenant's security deposit in full satisfaction of the recovery of the cost of the filing fee.

Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: January 13, 2020

Residential Tenancy Branch