



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CHRISTOPHER WALL MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Code: OPC

Introduction

The landlord seeks an order of possession for cause pursuant to sections 47 and 55 of the *Residential Tenancy Act* ("Act"). The landlord filed an application for dispute resolution on October 3, 2020 and a hearing was held on Friday, December 18, 2020, at 9:30 AM¹. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, present testimony, make submissions, and call witnesses; the tenant did not attend.

The landlord testified that they served the Notice of Dispute Resolution Proceeding package on the tenant by posting it on the tenant's door on October 15, 2020 at 10:38 AM. Based on this evidence I find that the tenant was served with the Notice of Dispute Resolution Proceeding in compliance with the Act and the *Rules of Procedure*.

Issue

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on December 13, 2019 and it is a month-to-month tenancy in an SRO property. Monthly rent is \$630.00, and the tenant paid a security deposit of \$315.00. A copy of the written tenancy agreement was submitted into evidence.

On August 31, 2020 the landlord served the tenant with a One Month Notice to End Tenancy for Cause ("the Notice"). All three pages of the Notice – a copy of which was in evidence – were served on the tenant and all required sections of the Notice were completed by the landlord. Service was executed by the Notice being posted on the door of the rental unit. As of the date of the landlord's application for dispute resolution the tenant had not made an application disputing the Notice.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 55(2) Section 55(2)(b) of the Act states that

A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution: [. . .]

a notice to end the 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

In addition, section 55(4) of the Act states that

In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 5 *[Resolving Disputes]*,

(a) grant an order of possession, and

(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

In this case, the Notice was served on the tenant on August 31, 2020 by being posted on the door. Under section 90(c) of the Act, a document served by being posted on a door is deemed to be received on the third day after it is attached. Therefore, the tenant is deemed to have received the Notice on September 1, 2020. He had ten days (pursuant to section 47(4) of the Act) to dispute the Notice; that is, until September 11, 2020. He did not dispute the Notice within the ten days that is permitted under the Act.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim for an order of possession pursuant to sections 47 and 55 of the Act.

An order of possession is issued to the landlord, in conjunction with this Decision.

Conclusion

The landlord's application is granted.

I hereby grant the landlord an order of possession, which must be served on the tenant and is effective two (2) days from the date of service. This 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 under section 9.1(1) of the Act.

Dated: December 18, 2020

Residential Tenancy Branch