



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1034076 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

The landlord filed an Application for Dispute Resolution (the “Application”) on May 14, 2021 seeking an order of possession for the rental unit. Additionally, they applied for reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 21, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference call hearing; the tenants did not attend.

The landlord gave the tenants notice of this dispute resolution hearing via registered mail, along with their prepared evidence. For each of the two tenants, they sent this on May 26. For each tenant, the package sent was returned to the landlord on June 16.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenants with this Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document has been served at a verified address allowed under s. 89 of the *Act*, and I must accept that evidence.

The landlord gave testimony that the address they provided on the registered mail package was that of the rental unit, still occupied by the tenants at the time of its mailing. They provided a Canada Post registered mail tracking number. They also gave an account of the movement of the mail.

I accept the landlord’s undisputed evidence that the tracking history showed that the tenants refused the registered mail package; therefore, I find they avoided service.

Based on the submissions of the landlord, I accept that they served the tenants notice of this hearing and the landlord's application in a manner complying with s. 89(1)(c) of the *Act*, and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for cause pursuant to s. 55 of the *Act*?

Is the landlord entitled to reimbursement of the Application filing fee?

Background and Evidence

The landlord submitted a copy of the residential tenancy agreement between the parties. This shows the tenancy started on June 1, 2019, continuing past the fixed-term tenancy that ended on May 31, 2020. The tenants were to pay \$1,250 monthly on the first day. The tenants paid a security deposit amount of \$625.

The landlord submitted as evidence a copy of the One Month Notice to End Tenancy for Cause (the "One Month Notice") dated May 2, 2021. The reason for the issuance of this document was the tenants' late payment of rent. The One Month Notice provides that the tenant had ten days from the date of service to apply for Dispute Resolution or the tenancy would end on the stated effective vacant date of June 5, 2021. The landlord served the document to the tenants in person on that same date. A witness signed a proof of service document to show this.

As of the date of the hearing, the landlord advised that one of the tenants is still remaining in the unit. They confirmed this when the tenant inquired on a utility matter the day before the hearing.

The landlord gave brief testimony that covered details on the One-Month Notice. This was 21 instances of late payment of rent, including NSF fees incurred. They provided the tenants a copy of the rent payment ledger on several occasions, with a copy each time the tenants were late with paying rent. There were "many ledgers over the past couple of years."

The tenants did not attend the hearing. There is no documentary evidence of the tenants submitted to respond to the reason for the issuance of the One Month Notice.

Analysis

The *Act* s. 47 allows a landlord to end a tenancy by giving notice to end the tenancy if, among other things, one or more of the listed conditions in that section applies.

Following this, s. 47(4) allows a tenant who receives a notice to end tenancy 10 days to submit an Application for Dispute Resolution to cancel the notice. Next, s. 47(5) stipulates that if a tenant fails to apply within 10 days, 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.

I have reviewed the Notice, and I find it complies with the form and content requirements of s. 52 of the *Act*. I find that the tenants did not dispute the Notice within ten days, pursuant to s. 47(4). I find that the tenant is conclusively presumed to have accepted that the tenancy has ended in accordance with s. 47(5).

I find the landlord has the authority to issue the Notice under s. 47 of the *Act*. I grant the landlord's request for an Order of Possession under s. 55 of the *Act*.

Because the landlord is successful in this hearing, I grant them compensation of the \$100 Application filing fee.

Conclusion

I grant an Order of Possession to the landlord effective **TWO DAYS after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to s.72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$100, for recovery of the filing fee for this hearing application. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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 s. 9.1(1) of the *Act*.

Dated: September 21, 2021

Residential Tenancy Branch