



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord filed under the Residential Tenancy Act, (the “Act”) to enforce a One Month Notice to End Tenancy for Cause, (the “Notice”) dated January 13, 2023. The matter was set for a conference call.

The Agent for the Landlord and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

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?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

Landlord testified that they served the Notice to the Tenant on January 13, 2012, by attaching it to the Tenant’s door or other conspicuous place. The Notice recorded an end of tenancy date of February 28, 2023. The Landlord submitted a copy of the Notice into documentary evidence. The Landlord submitted that the Tenant had not disputed

the Notice or moved out in accordance with the Notice and requested an order of possession to the rental unit.

The Tenant agreed that they did receive the Notice and that they had not disputed the Notice. During the hearing, the Tenant requested permission to submit an application to dispute the Notice during the proceedings. The Tenant was advised that pursuant to section 66 of the *Act*, it was too late to dispute the Notice as the effective date to the Notice had already passed.

Analysis

Based on the testimony, the documentary evidence before me, and on a balance of probabilities, I find as follows:

Section 47 of the *Act* requires that upon receipt of a Notice to End Tenancy for Cause a tenant must, within ten days, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not do this, the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice under section 47(5).

I accept the Tenant's testimony and find that they received the Notice to end the tenancy on January 16, 2023, three days after the Notice had been posted to their door. Pursuant to section 47 of the *Act*, the Tenant had 10 days to dispute the Notice. Consequently, the Tenant had until January 26, 2023, to dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch.

In this case, I find that the Tenant did not dispute the Notice to End Tenancy and that the time for doing so has expired. Therefore, pursuant to section 47 of the *Act*, I find that the Tenant is conclusively presumed to have accepted the Notice and that the tenancy would end in accordance with that Notice.

Section 55(2b) of the *Act* states that a landlord may request an order of possession if a notice to end the tenancy has been given by the landlord and the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the *Act*, effective not later than 2 days after service of this Order upon the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The

Tenant is cautioned that the costs of such enforcement are recoverable from the Tenant.

Conclusion

I find that the Tenant did not dispute the Notice and is therefore presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

I grant an **Order of Possession** to the Landlord, effective not later than **2 days** after service of this Order upon the Tenant. The Tenant must be served with this Order. 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.

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: May 29, 2023

Residential Tenancy Branch