



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on June 30, 2023 concerning an application made by the landlord seeking an Order of Possession for cause and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, accompanied by a witness who did not testify or take part in the hearing. The landlord gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord testified that the tenant was served with the Notice of Dispute Resolution Proceeding by registered mail on March 27, 2023 and has provided a Proof of Service Notice of dispute Resolution Proceeding Package indicating that the tenant was served on March 27, 2023 by Registered mail, and a copy of a Canada Post Registered Domestic Customer Receipt and Canada Post cash register receipt dated March 27, 2023 containing the tracking number. I find that the tenant has been served in accordance with the *Residential Tenancy Act*.

The landlord also testified that the tenant was served with all evidence. I accept that testimony and all evidence provided by the landlord has been reviewed and all evidence that I find relevant to this application is considered in this Decision.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession with respect to a One Month Notice to End Tenancy for Cause?

Background and Evidence

The landlord testified that this month-to-month tenancy began about 3 years ago, and the tenant still resides in the rental unit. There is no written tenancy agreement, however rent in the amount of \$800.00 is payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$400.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a suite in a garage.

The landlord further testified that on January 4, 2023 the landlord served the tenant with a One Month Notice to End Tenancy for Cause by posting it to the door of the rental unit. A copy of the Notice has been provided for this hearing and it is dated January 4, 2023 and contains an effective date of vacancy of February 28, 2023. The reason for issuing it states: Rental unit must be vacated to comply with a government order.

The landlord testified that a few months prior to issuing the Notice the landlord received a letter from the City saying that too many people reside on the rental property and waned the landlord to cut it from 12 people to 6 people and it was left for the landlord to decide which tenants would vacate. A copy of the letter has been provided for this hearing. This tenant is the last one to vacate, and the tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice.

Analysis

Once served with a One Month Notice to End Tenancy for Cause, a tenant may dispute it by filing and serving the landlord with a Notice of Dispute Resolution Proceeding within 10 days of service, or deemed service. If the tenant fails to dispute it, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, the landlord testified that the One Month Notice to End Tenancy for Cause was posted to the door of the rental unit on January 4, 2023, which is deemed to have been served on January 7, 2023. Therefore, the tenant had until January 17, 2023 to dispute it. The landlord testified that the tenant has not served the landlord with a Notice of Dispute Resolution Proceeding or an Application, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of

Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the landlord in that amount, and I order that the landlord be permitted to keep that amount from the security deposit held in trust, or may serve the order to the tenant and file it for enforcement in the Provincial Court of British Columbia, Small Claims division as an order of that Court.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00, and I order that the landlord may keep that amount from the security deposit held in trust, or may otherwise recover it.

This order is final and binding and may be enforced.

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: June 30, 2023

Residential Tenancy Branch