

Decision

Dispute Codes: OPC, MND, MNDC, MNSD, FF

Introduction

A hearing in the dispute between these parties was originally convened on October 22, 2009, in response to an application from the landlord for an order of possession, a monetary order for damage to the unit, compensation for damage or loss under the Act / regulation / tenancy agreement, retention of the security deposit, in addition to recovery of the filing fee.

While the landlord participated in the initial hearing, the tenant did not. Arising from the dispute resolution officer's consideration of the documentary evidence and undisputed testimony of the landlord, a decision and order of possession in favour of the landlord were issued on October 22, 2009.

Subsequently, on October 26, 2009 the tenant applied for a review of the decision and order on the basis that he was unable to attend the hearing because of circumstances that could not be anticipated and were beyond his control. In the result, this review hearing was scheduled, and the decision and order of possession dated October 22, 2009 were suspended pending the outcome of this review hearing.

While the landlord and her witness attended this review hearing and gave affirmed testimony, the tenant did not appear.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act

Background and Evidence

The landlord testified that the application for dispute resolution and copies of all documentary evidence for the review hearing were personally served on the tenant on November 10, 2009. The landlord's witness testified that he was present when the above documents were personally served on the tenant on November 10, 2009.

Further, in relation to the initial hearing held on October 22, 2009, the landlord stated that the application for dispute resolution and notice of hearing package were personally served on the tenant on September 9, 2009. The landlord's witness testified that he was present when the application for dispute resolution and notice of hearing package were personally served on the tenant on September 9, 2009.

Additionally, the landlord testified that the 1 month notice to end tenancy dated August 26, 2009 was personally served on the tenant on August 31, 2009. The landlord's witness testified that he was present when the 1 month notice to end tenancy was personally served on the tenant on August 31, 2009.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord and the landlord's witness, I find that the tenant was properly served with the 1 month notice to end tenancy for cause, as well as the application for dispute resolution and notice of hearing for the original hearing. I further find that the application for dispute resolution and copies of all documentary evidence before me in this review hearing were properly served on the tenant.

Having further considered the documentary evidence and undisputed testimony of the landlord, in addition to having considered the testimony of the landlord's witness, I find that the decision and order of possession dated October 22, 2009 are hereby upheld.

Specifically, the landlord is granted an order of possession effective two (2) days after service upon the tenant. In the event the landlord has already served the tenant with

the order of possession, the landlord has the option of filing the order of possession in the Supreme Court of British Columbia, and it can be enforced as an order of that Court.

Further, as set out in the decision dated October 22, 2009:

The landlord is awarded the filing fee and is authorized to deduct \$50.00 from the tenant's security deposit. The landlord's claims for compensation are dismissed with leave to reapply.

Conclusion

Pursuant to all of the above, the decision and order of possession which was issued in favour of the landlord and dated October 22, 2009, are hereby upheld.

DATE: December 10, 2009

Dispute Resolution Officer