

DECISION

Dispute Codes OPC, O

Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the *Act*) for an Order of Possession.

The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlords' daughter (the landlord) acted as her parents' agent in this matter and provided written authorization to do so on their behalf. She provided written and oral testimony that a 1 Month Notice to End Tenancy for Cause was posted on the door of the tenant's residence by her brother on December 1, 2010. This posting was witnessed by her brother's friend. I accept her undisputed evidence that this notice was served in accordance with the *Act*.

The landlord also testified that her brother attempted to personally serve the application for dispute resolution to the tenant at the location where she is living, in the company of her brother's friend. She said that the tenant refused acceptance of this document and entered her truck which was parked at the address where the tenant resides. The landlord testified that her brother placed the application for dispute resolution on the front windshield of the tenant's truck while the tenant watched from inside the truck, telling her that it was important that the tenant review this document. The landlord said that her brother and his friend watched the tenant leave the truck and retrieve the application for dispute resolution from her windshield. She asked that this method of service delivery be accepted as the tenant has no formal mailing address where documents could be sent. The landlord maintains that the tenant is "squatting" on her parents' property in one of a number of recreational vehicles she has placed there. Although this is an unusual set of circumstances surrounding the service of the application for dispute resolution, I am satisfied by the landlord's undisputed evidence that the landlord has served this application for an Order of Possession in accordance

with subsection 89(2)(d) of the *Act*. This subsection allows a landlord to serve a tenant with an application under section 55 of the *Act* for an Order of Possession “by attaching a copy to a door or other conspicuous place at the address at which the tenant resides.” Given that the tenant was in the truck at the time the application was placed on her front windshield and retrieved that application while the server watched her, I am satisfied that the application was attached to a conspicuous place as set out in subsection 89(2)(d) of the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord said that the tenant has been squatting on the property without the landlords’ authorization. She said that her father is elderly and suffers from dementia. She said that it is unclear to her if her father gave the tenant permission to reside on the property. However, she said the tenant has not been paying rent for some time, if ever. She testified that the tenant has left three recreational vehicles on this rural property and lives in one of them. She said that the tenant has also stored many unsightly belongings and possessions on the property and around two of the recreational vehicles, prompting the Regional District to issue bylaw enforcement orders to clean up the property and remove the unauthorized living unit where the tenant is residing. The landlord provided copies of a series of correspondence with the Regional District.

The landlord issued the 1 Month Notice to End Tenancy for many grounds including the following:

- *Tenant is repeatedly late paying rent.*
- *Tenant or a person permitted on the property by the tenant has:*
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord;...*
 - Put the landlord’s property at significant risk.*
- *Tenant has engaged in illegal activity that has, or is likely to:*

Damage the landlord's property...

Jeopardize a lawful right or interest of another occupant or the landlord.

Adversely affect the quiet enjoyment, security, safety or phys

- *Tenant has caused extraordinary damage to the unit/site or property/park.*
- *Tenant has not done required repairs of damage to the unit/site.*
- *Rental unit/site must be vacated to comply with a government order...*

Analysis

Order of Possession

The tenant has not made application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice to End Tenancy for Cause. In accordance with section 47(5) of the *Act*, the tenant's failure to take this action within ten days led to the end of her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by December 31, 2010.

As that has not occurred and based on the undisputed evidence of the landlord, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) 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*.