



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order. The hearing was conducted via teleconference and was attended by the landlord

The landlord provided documentary evidence the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on February 4, 2013 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 5th day after it was mailed. Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing I confirmed with the landlord that only one person was named in the tenancy agreement as the tenant and as such I must amend his Application to name the respondent as only the female tenant.

The landlord clarified that his claim for damage was for damage to the rental unit and as the tenant is still in possession of the rental unit I find this issue to be premature as the tenant may still make repairs up to the end date of the tenancy. I dismiss this portion of the landlord's Application with leave to reapply.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on October 1, 2012 for a month to month tenancy beginning on October 1, 2012 for a monthly rent of \$700.00 due on the 1st of each month.

The landlord also provided a copy of a 1 Month Notice to End Tenancy for Cause issued on December 31, 2012 with an effective vacancy date of January 31, 2013 citing the tenant has allowed an unreasonable number of occupants in the unit.

The landlord submits that the tenant was served the 1 Month Notice to End Tenancy for Cause personally on December 31, 2012. The Notice states the tenant had ten days to apply for Dispute Resolution seeking to cancel the notice or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within ten days.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on December 31, 2012 and the effective date of the notice was January 31, 2013. I accept the evidence before me that the tenant did not dispute the Notice within the 10 days granted under Section 47(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$50.00** comprised of the fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 26, 2013

Residential Tenancy Branch