



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) An Order of Possession pursuant to Sections 47, and 55 for cause; and
- b) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Both parties attended and the tenant agreed they received personally the Notice to end Tenancy dated February 18, 2014 and the Application for Dispute Resolution by registered mail. I find that the tenants were legally served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated February 18, 2014 for cause, namely repeated late payment of rent. Has the landlord proved on the balance of probabilities that there is good cause to end this tenancy and obtain an Order of Possession? Is the landlord now entitled to recover the filing fee?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced on August 6, 2012, no security deposit was paid and rent is currently \$357 a month. In evidence, the landlord provided many 10 day Notices to End Tenancy for unpaid rent; also copies of warning letters over the 20 month period of the tenancy. The landlord requests an Order of Possession and the filing fee.

The tenants said they had tried to make an arrangement with the landlord to not enforce an Order of Possession provided they paid their rent on time from this date forward. Currently they owe no arrears of rent. The landlord agreed with this.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. I find there is substantial evidence that the tenants have been late in paying their rent 16 times in the 20 month period of tenancy in spite of a number of warning letters. The Tenant has not made application pursuant to Section 47 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act section 47(9) provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice and must vacate the unit. An Order of Possession is issued effective two days from service. However, I find the landlord has agreed not to serve or enforce this order provided there are no more late rental payments from the tenant. Each and every rent payment must be made by the first of each month from this date forward as a condition of this agreement.

Monetary Order

There are no rental arrears but I find the landlord entitled to a monetary order for \$50 to recover the filing fee for this application.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service. The order will not be served or enforced provided the tenant makes all rent payments on time by the first of each month from this date forward.

I find the landlord is entitled to recover filing fees paid for this application. A monetary order for \$50 is enclosed.

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: April 03, 2014

