



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee for this proceeding.

The Landlord's agent said they served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery September 17, 2014. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

It should be noted this is the second hearing with respect to this tenancy. The first hearing was held on August 22, 2014 and was to hear the Tenant's application to cancel a Notice to End Tenancy for Cause. The Tenant's application was not successful and the Arbitrator found that the Landlord's Notice to End Tenancy for Cause dated June 19, 2014 with an effective vacancy date of July 31, 2014 was valid.

Issues(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?

Background and Evidence

This tenancy started 2 to 3 years ago as a month to month tenancy. Rent is \$320.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$150.00.

The Landlord's agent said that in the hearing of August 22, 2014 she did not formally request and Order of Possession as the Arbitrator upheld their Notice to End the Tenancy for Cause. After the Hearing the Tenant would not move out and has become uncooperative. The Landlord's agent said they contacted the Residential Tenancy Branch and they were told to make an application to request an Order of Possession. The Landlord's agent requested an Order of Possession for as soon as possible as they are concerned for the safety of the other tenants, the Landlord and for the property.

The Landlord's agent also requested to recover the filing fee of \$50.00 for this application from the Tenant

Analysis

Section 55 of the Act says: (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

I find that the Tenant's application to dispute the Landlord's Notice to End Tenancy was dismissed in a decision dated August 22, 2014; therefore the Notice is valid and I award the Landlord with an Order of Possession effective 2 days after service of the Order on the Tenant.

I also find that as the Landlord was successful in this matter he is entitled to recover the filing fee of \$50.00 for this proceeding from the Tenant. I order the Landlord to retain \$50.00 from the Tenant's security deposit as full payment of the filing fee for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in 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*.

Dated: October 20, 2014

Residential Tenancy Branch

