



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on May 16, 2016 (the "Application").

The Landlord seeks the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order of possession for cause; and an order granting recovery of the filing fee.

The Landlord was represented at the hearing by E.S., who provided his solemn affirmation. The Tenant did not attend the hearing.

The Landlord advised the Tenant was served with the Notice of Dispute Resolution Hearing (the "Notice"), and the evidence upon which the Landlord relied, by registered mail on May 19, 2016. A Canada Post receipt, including a tracking number, was provided with the Landlord's documentary evidence.

Pursuant to section 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Tenant was duly served with the Notice on May 24, 2016.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The Landlord has submitted into evidence a copy of a tenancy agreement between the parties. The tenancy agreement confirms a month-to-month tenancy. Rent in the amount of \$1,264.33 is due on the first day of each month. The Tenant provided the Landlord with a security deposit in the amount of \$565.00 at the beginning of the tenancy. E.S. confirmed rent has been paid for the month of June 2016.

The Landlord says the Tenant was served with a 1 Month Notice to End Tenancy for Cause, dated April 18, 2016 (the "1 Month Notice"), by leaving a copy attached to the Tenant's door on the same date. Included with the Landlord's documentary evidence was a Proof of Service form in support.

Analysis

Based on the documentary evidence and unchallenged oral testimony provided by the Landlord, and on the balance of probabilities, I find the following:

The Landlord advised the 1 Month Notice was served by attaching a copy to the Tenant's door on April 18, 2016. Pursuant to section 90 of the *Act*, documents served in this way are deemed to be received three days later. I find the Tenant was duly served with the 1 Month Notice on April 21, 2016.

Pursuant to section 47 of the *Act*, a tenant may dispute a notice to end tenancy for cause by making an application for dispute resolution within 10 days after receiving the notice. If a tenant fails to do so, section 47(5) of the *Act* creates the conclusive presumption that the tenant has accepted the tenancy ends on the effective date of the notice and must vacate the rental unit on that date.

I have found that the Tenant was duly served with the 10 Day Notice on April 21, 2016. However, the tenant has not filed an application for dispute resolution. Accordingly, I find he is conclusively presumed to have accepted the tenancy ended on the effective date of the notice.

Accordingly, I grant the Landlord an order of possession. As the Landlord confirmed during the hearing that rent has been paid for June 2016, the order of possession will be effective June 30, 2016, at 1:00 p.m.

Having been successful, the Landlord is entitled to recovery of the \$100.00 filing fee. I authorize the Landlord to retain \$100.00 from the security deposit in satisfaction of the filing fee.

Conclusion

I grant the Landlord an order of possession, which will be effective on June 30, 2016, at 1:00 p.m. This order of possession may be filed in 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*.

Dated: June 17, 2016

Residential Tenancy Branch