



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, FF

Introduction

This matter dealt with an application by the Landlord to end the tenancy, for an Order of Possession and to recover the filing fee.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on September 11, 2017. 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 absences.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on April 1, 2017 as a 6 month fixed term tenancy. Rent is \$1,200.00 per month payable in advance of the 1st day of each month. The Tenant did not pay a security deposit.

The Landlord said he issued a 1 Month Notice to End Tenancy for Cause dated July 26, 2017 by posting the Notice on the door of the Tenant’s rental unit on July 26, 2017. The Landlord submitted a witnessed proof of service of the Notice to End Tenancy. The Landlord continued to say the Tenant is living in the unit and has not paid the rent for July, August, September and October, 2017. Further the Landlord said the expiry date of the fixed term of the tenancy has past and he wants to end the tenancy as soon as possible. The Landlord requested an Order of Possession for as soon as possible.

Analysis

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a Tenant may apply for dispute resolution. If the Tenant fails to do this, then under section 47(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy three days after it was served, or on July 29, 2017. Consequently, the Tenant would have had to apply to dispute the Notice by August 8, 2017.

I find that the Tenant has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that as the Landlord was successful in this matter he is entitled to recover the filing fee of \$100.00 for this proceeding from the Tenant.

Conclusion

An Order of Possession effective 2 days after service of the Order on the Tenant and a Monetary Order in the amount of \$100.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) 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: November 21, 2015

Residential Tenancy Branch