



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mt Seymour Lions Housing Society and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *OPC*

Introduction

This hearing dealt with an application by the landlord for an order of possession pursuant to s.55 of the *Residential Tenancy Act*.

The landlord testified that she served the tenant with the notice of hearing and evidence package by posting the package on the front door, on July 18, 2020. The landlord filed proof of service. Despite having been served a notice of hearing by the landlord, the tenant did not attend the hearing.

The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy started on May 30, 2020. The accommodation is subsidised housing and is allotted and rented based on a tenant's income and family size. The tenant's portion of the rent is \$350.00.

A copy of the tenancy agreement was filed into evidence. The tenancy agreement clearly states that smoking is not permitted inside the rental unit. The landlord stated that despite verbal warnings on May 30 and June 02, 2020, the tenant continued to smoke inside the rental unit. On June 04, 2020 the landlord served the tenant with a written warning, but the smoking inside the rental unit continued.

The landlord stated that the smoke affected the health of the other residents who made several complaints to the landlord.

On June 30, 2020, the landlord served the tenant with a notice to end tenancy for cause by posting the notice on the front door. The landlord filed proof of service. The effective date of the notice is July 31, 2020. By July 17, 2020, the tenant had not disputed the notice and the landlord made this application for an order of possession effective two days after service on the tenant.

Analysis

Based on the undisputed testimony and documentary evidence of the landlord, I find that the tenant is deemed to have received the notice to end tenancy, on July 03, 2020 and did not make 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* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

Conclusion

I grant the landlord an order of possession effective **two days** after service on the tenant.

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: August 24, 2020

Residential Tenancy Branch