

Decision

Dispute Codes: 0

Introduction

I have been delegated authority under section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This is the Landlord’s application for an Order of Possession.

Issue(s) to be Decided

The issue to be determined based on the testimony and the evidence is whether or not the Landlord is entitled to an Order of Possession because the Tenants are still occupying the rental unit contrary to the terms of a fixed-term Tenancy Agreement.

Background and Evidence

The Landlord testified that he served both of the Tenants with the Notice of Dispute Resolution and Notice of Hearing package, by registered mail on January 14, 2009. The Landlord provided a tracking number from Canada Post, which indicated that both Tenants signed for the registered mail package on January 20, 2009.

The Landlord was relying on terms of the Tenancy Agreement, signed by the Tenants on September 7, 2008. The Landlord testified that the Tenancy Agreement contained a clause regarding the length of the tenancy, which the Landlord testified had expired.

The Landlord testified that he submitted a copy of the Tenancy Agreement as evidence, by fax to the residential tenancy office on January 14, 2009, and had included a copy of the Tenancy Agreement to the Tenants along with the Notice of Hearing package and

his Application for Dispute Resolution. However, there was no copy of the Tenancy agreement on the case file.

When I informed the Landlord that I didn't have a copy of his evidence on the case file, the Landlord testified that he had, in fact, faxed it to the residential tenancy office on the same day that he had e-mailed an information officer requesting directions on how to provide the evidence, and provided the first name of the information officer he spoke with. I briefly adjourned the hearing in order to confirm the information officer's receipt of the Landlord's e-mail on January 14, 2009. I was able to confirm that the Landlord had e-mailed the information officer and included in his e-mail the fact that he was going to fax the Tenancy Agreement to the residential tenancy office. I am satisfied that the Landlord did fax the Tenancy Agreement and that it was provided to the Tenants as evidence. I therefore allowed the Landlord to refax the Tenancy Agreement and placed it on the case file.

The Landlord testified that the tenancy was for a fixed term of three months, ending on December 31, 2008. The Landlord testified that the Tenants were still occupying the rental unit and asked for an Order of Possession.

The Landlord testified that the Tenants were in arrears for the month of December, 2008 and had not paid utilities for the month of December, 2008. The Landlord testified that he was not applying for a monetary order, but merely wanted an Order of Possession.

Analysis

I am satisfied that the Tenants were served with the Landlord's Application for Dispute Resolution and the hearing package.

The copy of the Lease Agreement was signed by both of the Tenants. Paragraph 2 of the Lease Agreement states, in part:

"This tenancy is for a fixed length of time: three months ending on: 31 December 2008.

At the end of this fixed length of time the tenancy ends and the tenant must move out of the rental unit. If you choose this option, both the landlord and tenant must initial in the boxes to the right."

Both of the Tenants and the Landlord placed their initials in the boxes.

At the end of a fixed term tenancy, where it is clear in the Tenancy Agreement, and accepted by the parties, that the tenancy ends on a certain date, the Tenants must move out of the rental unit on the date specified. I find that the Tenants are overholding and the Landlord is entitled to an immediate Order of Possession.

Conclusion

Under section 55 of the Act, and based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from

service of the order. This order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

February 11, 2009
