

Decision

Dispute Codes: OPL

Introduction

This hearing dealt with an application from the landlord for an order of possession for landlord's use of property. Both parties participated in the hearing and gave affirmed testimony.

Issue to be decided

- Whether the landlord is entitled to an order of possession under the Act

Background and Evidence

There is no written residential tenancy agreement in evidence before me for the month-to-month tenancy which began in this unit on August 31, 2007. Rent in the amount of \$700.00 is payable in advance on the first day of each month. The tenant claims she paid a security deposit of \$350.00 on June 1, 2005 in relation to a separate and distinct unit from the one which is the subject of this dispute. During the hearing the parties undertook to determine outside of the hearing whether or not that security deposit had been returned to the tenant at the time when she relocated to the present unit and, if so, whether a new security deposit had been collected, or whether the original security deposit was simply transferred from the previous unit to the present unit.

The landlord issued a 2 month notice to end tenancy for landlord's use of property dated August 31, 2009. The notice was served in person on the tenant on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is October 31, 2009. The reason shown on the notice for its issuance is as follows:

All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the

purchaser or a close family member intends in good faith to occupy the rental unit.

Despite service of the above notice, the tenant still presently resides in the unit. Her reasons for not vacating the unit include, but are not necessarily limited to, difficulty she has had finding suitable alternate accommodation within the same geographic area, in order that her daughter may attend the same school until the end of the current school year.

As for rent, subsequent to receiving the notice on August 31, 2009, the tenant paid all rent due for September, but pursuant to section 51 of the Act she was not required to pay rent for the month of October 2009.

During the hearing the parties undertook to later resolve between them any outstanding issues related to rent that may be due and payable for the period between November 1, 2009 and January 31, 2010.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute around possession of the unit, and undertook to achieve a resolution.

Analysis

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that the tenant will vacate the unit by no later than *1:00 p.m. on Saturday, January 23, 2010*, and that an *order of possession* will be issued in favour of the landlord to that effect.

In the meantime, the attention of the parties is drawn to the following provisions in the Act:

Section 23: Condition inspection: start of tenancy or new pet

Section 24: Consequences for tenant and landlord if report requirements not met

Section 35: Condition inspection: end of tenancy

Section 36: Consequences for tenant and landlord if report requirements not met

Section 37: Leaving the rental unit at the end of tenancy

Section 38: Return of security deposit and pet damage deposit

Section 49: Landlord's notice: landlord's use of property

Section 51: Tenant's compensation: section 49 notice

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Conclusion

Pursuant to all of the above, I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m. on Saturday, January 23, 2010.** This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

DATE: January 13, 2010

Dispute Resolution Officer