



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPL, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on January 7, 2011. 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 with both the Tenant and the Landlord in attendance.

Issues(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?

Background and Evidence

This tenancy started on April 1, 2009 as a month to month tenancy. Rent is \$532.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$266.00 on April 1, 2009.

The Landlord said that her colleague represented her company at the Dispute Resolution Hearing on December 30, 2010 that heard the Tenant’s application to cancel the Notice to End Tenancy dated November 30, 2010, that the Landlord served on the Tenant on November 30, 2010. The Landlord said the previous decision dismissed the Tenant’s application to cancel the Notice to End Tenancy and her colleague forgot to request an Order of Possession at the Hearing. The Landlord said she has refused to obtain an Order of Possession as the Tenant has not moved out of the rental unit. The Landlord said she would like the Order of Possession with an early effective vacancy date.

The Tenant said he agreed with the information given by the Landlord, but he requested an effective vacancy date of February 28, 2011 so he could have time to find a new place to rent.

The Landlord said she would agree to an effective vacancy date of February 20, 2010; as she would need a week to clean and heat treat the unit for bedbugs before renting the unit out.

Analysis

Section 55 (1) says if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

The Landlord has made application for an Order of Possession as a result of the Tenant's application to cancel the Notice to End Tenancy being dismissed. As the Tenant has not provided any new evidence, I find for the Landlord and grant an Order of Possession with an effective vacancy date of February 20, 2011.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38 and s. 72 of the Act to keep \$50.00 of the Tenant's security deposit as full payment of the filing fee for this proceeding.

Conclusion

An Order of Possession effective February 20, 2011 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in 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: January 24, 2011.

Residential Tenancy Branch