



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for Landlord's Use of the Property pursuant to section 55; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:13 a.m. in order to enable the tenant to connect with this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. He testified that his real estate manager handed the tenant his 2 Month Notice to End Tenancy for Landlord's Use of Property on January 28, 2011. He testified that his real estate manager handed the tenant his dispute resolution hearing package on March 31, 2011. He testified that both his real estate manager and the tenant's sister have discuss the dispute resolution hearing package with the tenant after it was provided to the tenant. I am satisfied that the landlord has served these documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession? Is the landlord entitled to recover his filing fee for this application from the tenant/

Background and Evidence

This tenancy commenced as a month-to-month tenancy on or about April 2001. Present rent is set at \$600.00, payable on the first of each month. The landlord continues to hold a \$250.00 security deposit paid by the tenant when she commenced her tenancy.

The landlord testified that he issued the 2 Month Notice because he needs a place to stay when he is in the Lower Mainland. He said that he plans to bring furniture to the rental unit to enable him to stay in the rental unit. He is presently working outside the province but will be returning in the near future.

Analysis

The tenant has not made application pursuant to section 49(8) of the *Act* within fifteen days of receiving the 2 Month Notice to End Tenancy for Landlord's Use of Property. In accordance with section 49(9) of the *Act*, the tenant's failure to take this action within fifteen days led to the end of her tenancy on March 31, 2011 and required her to vacate the rental premises by that date. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I allow the landlord to recover his filing fee for this application by retaining \$50.00 from the tenant's security deposit.

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*.