

DECISION

Dispute Codes OPB, FF, O

Introduction

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

- an Order of Possession pursuant to subsection 55(2)(c); and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:21 p.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. The landlord testified that a copy of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on August 5, 2011. The landlord provided a sworn affidavit to this effect and a copy of the Canada Post Tracking Number and Customer Receipt. The landlord provided written evidence that this package was returned to the sender unclaimed by the tenant. I find that the landlord served a copy of the dispute resolution hearing package in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for the tenant's failure to vacate the rental premises by the date specified in his residential tenancy agreement? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This four month fixed term tenancy commenced on April 1, 2011. Monthly rent was set at \$320.00, payable in advance on the first of the month. The landlord did not collect a security deposit for this tenancy.

The tenant had been living with his father at this rent geared to income rental unit for senior citizens, until his father passed away. The landlord said that this short term tenancy was created to enable the tenant to stay in this rental unit while he arranged for alternative accommodation. The landlord provided a written copy of the residential tenancy agreement which noted that both parties agreed that the tenancy would end by July 31, 2011 and the tenant would vacate by that date.

The landlord testified that the tenant was still living in the rental unit as of July 31, 2011. Although it would now appear that the tenant is not living in the rental unit, the landlord testified that the tenant has left many belongings in the rental unit. The landlord applied for an Order of Possession pursuant to the provisions of subsection 55(2)(c) of the *Act*.

Analysis

Subsection 55(2)(c) of the *Act* reads in part as follows:

(2) *A landlord may request an order of possession of a rental unit...by making an application for dispute resolution:*

(c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term...

Under these circumstances, no notice to end tenancy is necessary as the tenant has already provided the landlord with his written agreement that he would vacate the rental unit by July 31, 2011. As the tenant has not surrendered vacate possession to the landlord, 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). Since the landlord has been successful in this application, I issue a monetary Order in the amount of \$50.00 to allow the landlord to recover the filing fee from the tenant.

Conclusion

I issue a 2-day Order of Possession to the landlord. 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 issue a monetary Order in the landlord's favour in the amount of \$50.00 for recovery of the landlord's filing fee for this application. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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*.