



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, FF

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, seeking an order of possession for the rental unit and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

At the outset of the hearing it was determined that the Landlord had misspelled the last name of the Agent for the Landlord in the Application. Amending the Application was discussed. The Tenant objected to the amendment on the grounds the Application is a legal document and therefore, the name should not be changed. I find the Tenant was well aware of who the Agent for the Landlord was, as this name is on the tenancy agreement, and there is no prejudice to the Tenant in this change. Therefore, I allow the Landlord to amend the Application. The style of cause reflects the correct spelling of the Agent's last name.

I also note that at the end of the hearing the Tenant became interruptive and rude. He was cautioned against this behaviour and the hearing concluded in the usual manner.

Issue(s) to be Decided

Are the Landlords entitled to an order of possession?

Background and Evidence

This tenancy began over ten years ago. The Landlords testified that there had been several changes of renters during the tenancy and the parties agreed to enter into a new tenancy agreement which started October 1, 2010. The standard form, written tenancy agreement was provided in evidence.

In part 2 of the Agreement the parties agreed the tenancy was for a fixed term of one year, and would conclude on October 1, 2011.

Both the Agent for the Landlord and the Tenant initialled the option clause which provides, "... the tenancy ends and the tenant must move out of the residential unit..."

The Landlords applied for the order of possession on September 6, 2011. The Landlord writes in the details of the Application that he believes the Tenants would not be moving out at the end of the fixed term.

The Tenant testified that the Agent for the Landlord informed him when they were making the tenancy agreement, that they might be planning renovations for the rental unit and they wanted the option to end the tenancy in a years' time.

The Tenant testified that over the past few months the Agent for the Landlord explained that he was not sure what was happening with the rental unit. He testified that he called the owner of the property and he was told to deal with the Landlord's Agent. The Tenant also testified he was willing to pay an increased amount of rent after the renovations were done in order for the tenancy to continue.

The Tenant also testified that the Landlords had to give him a notice the tenancy was ending and compensate him in accordance with the Act.

The Agent for the Landlord denied he had recently said to the Tenant he was not sure what was happening with the tenancy. The Agent for the Landlord testified the Tenant was avoiding him when he went to pick up the rent and he did not provide the Landlord with a new phone number, otherwise he would have informed the Tenant there was to be no continuation of the tenancy. The Landlords confirmed they wanted the tenancy to end.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the tenancy ended on October 1, 2011, in accordance with the fixed term tenancy agreement.

In British Columbia no tenancy may end unless it ends in accordance with the Act. Under section 44(1)(b) of the Act, a tenancy ends if the tenancy agreement is a fixed term tenancy agreement that provides the Tenant will vacate the rental unit on the date specified as the end of the tenancy. Here the tenancy agreement specified the tenancy would end on October 1, 2011. Both parties agreed to this when the tenancy agreement was signed. I find that the tenancy ended on October 1, 2011.

The Landlords were not required to provide any other notice to end the tenancy to the Tenants and in this situation the Tenants are not entitled to any compensation for the tenancy ending.

Therefore, pursuant to section 55 of the Act, I grant and issue the Landlords an order of possession for the rental unit **effective two days after service upon the Tenants**.

The Landlords may retain \$50.00 from the security deposit in compensation for the filing fee for the Application.

This decision is final and binding on the parties, except as otherwise provided for under the Act, and 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: October 03, 2011.

Residential Tenancy Branch