



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL, FF

Introduction

This hearing was scheduled in response to an application by the landlords for an order of possession / and recovery of the filing fee. Both parties were represented at the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlords are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no copy of a written tenancy agreement in evidence for this tenancy which began on September 1, 2010. Monthly rent of \$850.00 is payable in advance on the first day of each month. A security deposit of \$425.00 and a pet damage deposit of \$250.00 were collected at the outset of tenancy.

The landlords issued a 2 month notice to end tenancy for landlord's use of property dated September 19, 2011, a copy of which is not in evidence. The notice was served in person on the tenant on that same date. The date shown on the notice by when the tenant must vacate the unit is December 1, 2011. However, as the unit to which the tenant planned to relocate was not available by December 1, 2011, the landlords agreed to extend the tenancy to December 15, 2011. Nevertheless, the landlords applied for an order of possession as it appeared that there was no certainty around the particular date when the tenant may actually vacate the unit. Presently the tenant still resides in the unit.

During the hearing the landlords withdrew the aspect of the application concerning recovery of the filing fee.

Further, during the hearing the parties exchanged views in regard to determining a specific end date to the tenancy.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the landlords issued a 2 month notice to end tenancy for landlord's use of property dated September 19, 2011, which was served on the tenant on that same date. The tenant did not apply to dispute the notice within the 15 day period available for doing same. The tenant is therefore conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlords are entitled to an order of possession.

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 in regard to a particular end date to the tenancy. Specifically, the parties agreed that an order of possession would be issued in favour of the landlords effective January 1, 2012.

Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **1:00 p.m., Sunday, January 1, 2012**. 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.

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: December 28, 2011.

Residential Tenancy Branch