



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: O, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / and recovery of the filing fee.

Agents for the landlord participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the tenant did not attend. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on December 1, 2008. At the start of tenancy, monthly rent of \$405.00 was payable in advance on the first day of each month, and a security deposit of \$202.50 was collected. Presently, monthly rent is \$430.00.

Using a template created by the landlord titled, "TERMINATION NOTICE (TENANT)," by date of February 29, 2012 the tenant gave notice to end tenancy effective March 31, 2012. Subsequently, the landlord gave the tenant a "Notice to Enter Suite" dated March 15, 2012. The Notice identified that the purpose of entry was for "pre-move out report." However, the tenant returned the Notice to the landlord with a manual notation on the bottom right hand corner as follows:

I am not moving. I have given your paper & signed nothing.

Analysis

Section 55 of the Act speaks to **Order of possession for the landlord**, and provides in part as follows:

55(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(a) a notice to end the tenancy has been given by the tenant;

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agents, I find that on February 29, 2012, the tenant gave written notice to end tenancy effective March 31, 2012. Accordingly, even while the tenant appears to have changed his mind about wanting to vacate the unit, pursuant to the above statutory provisions I find that the landlord has established entitlement to an order of possession effective March 31, 2012, which is the date shown on the tenant's notice by when tenancy will end.

As the landlord has succeeded in this application, I find that the landlord has established entitlement to recovery of the \$50.00 filing fee. I hereby order that the landlord may recover this fee by way of withholding \$50.00 from the security deposit.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Saturday, March 31, 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.

I hereby order that the **landlord may withhold \$50.00** from the security deposit in order to recover the filing fee.

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: March 26, 2012.

Residential Tenancy Branch