



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPB, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession as the result of a breach of a mutual agreement made with the landlord and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on July 3, 2012, in the early evening, she and her husband posted copies of the Application for Dispute Resolution, evidence and Notice of Hearing to the tenant's basement suite door.

These documents are deemed to have been served in accordance with section 89 of the Act; however the tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession based on a mutual agreement signed by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

Originally the tenant lived in the whole house with a male co-tenant. Rent was \$1,600.00 per month and a deposit of \$800.00 had been paid.

The landlord supplied a copy of a decision issued on May 9, 2012, in which the landlord was given an Order of possession and monetary order against the male co-tenant; the female tenant was not named as a respondent.

On April 1, 2012, the female tenant took possession of the lower portion of the house and the landlord continued to accept direct payments of \$600.00 per month.

On May 28, 2012, the tenant signed a mutual agreement to end a tenancy; a copy of the agreement was supplied as evidence. The tenant had agreed to vacate on June 30,

2012, at 12:00 p.m. The landlord is not convinced that the tenant has fully vacated and has requested an Order of possession.

Analysis

I find, from the evidence before me that the landlord accepted the start of a new tenancy with the female tenant, effective April 1, 2012, when she took possession of the basement suite and the landlord accepted rent payments.

In the absence of evidence to the contrary, I find that the tenant signed a mutual agreement to end a tenancy that was effective June 30, 2012, at 12:00 p.m. and, pursuant to section 55(2) of the Act, that the landlord is entitled to an Order of possession that is effective 2 days after service.

As the landlord was not clear as to whether she had possession or not, I have declined the filing fee costs.

Conclusion

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenant. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

This decision is final and binding on the parties, unless otherwise provided 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: July 23, 2012.

Residential Tenancy Branch