



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB

Introduction

This hearing was convened in response to an application by the Landlord FOR AN Order of Possession pursuant to section 55 of the *Residential Tenancy Act* (the "Act") The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The following are undisputed facts: The Tenancy began on April 1, 2012 and ended on July 31, 2012 pursuant to a mutual agreement to end the tenancy between the Landlord and the Tenant. The Tenant has moved out of the unit however two other persons who are living in the unit have refused to move out of the unit. The Tenant had earlier obtained the permission of the Landlord to sublet two rooms in the unit to these persons who paid rent to the Tenant while the Tenant continued to occupy the unit as well. The Tenant informed these persons that the tenancy was ending and that a mutual agreement to end the tenancy was signed by the Tenant. The Tenant also provided a letter dated July 23, 2012 to these persons informing these persons of the mutual agreement to end the tenancy and the date upon which to vacate the unit.

Analysis

A sublease is a lease given by the tenant of residential premises to a third person where the tenant retains a reversionary interest. In this situation, the Tenant subleases the unit to the third party until the reversionary interest reverts to the Tenant. Where a

tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the tenancy agreement unless all parties agree to enter into a tenancy agreement to include the new occupant.

Section 55 of the Act provides that where a landlord and tenant have agreed in writing that the tenancy is ended the landlord may request an order of possession.

Based on the undisputed evidence of the Parties that the Tenant continued to occupy the premises with the other persons and continued to maintain the tenancy by paying the rent to the Landlord, I find that the two persons in the unit are not sub lessees.

Based on the undisputed evidence of the Parties that the Tenant allowed these persons to move in and share the rent and that the Landlord did not enter into a new tenancy agreement with these two persons and the Tenant, I find that these two persons are occupants with no rights under the tenancy agreement.

Given the mutual agreement to end the tenancy between the Tenant and the Landlord, I find that the Landlord is entitled to an Order of Possession.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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: August 13, 2012.

Residential Tenancy Branch