



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order of possession due to landlord's use of the property and for recovery of the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Neither party raised any issue regarding service of the evidence or application.

Thereafter the parties discussed the application and the relief requested.

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.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and to recover the filing fee?

Background and Evidence

The landlord said he wasn't sure why it was necessary to file his application, but was advised to do so by a representative from the Residential Tenancy Branch ("RTB").

The landlord testified that he wanted an order of possession to ensure that the tenant vacated the rental unit by August 31, 2012.

The tenant acknowledged receiving the landlord's 2 Month Notice to End the Tenancy due to another use of the property by the landlord. The tenant further confirmed that she is vacating the rental unit on August 30, 2012, and will return to finish a clean.

The tenant asked the landlord to have the hallway cleared and a space in the yard for the movers, to which the landlord agreed.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Under the Act, a landlord may request an order of possession if a notice to end the tenancy has been given to the tenant by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

I find that to be the case here.

Conclusion

I find that the landlord is entitled to and I therefore grant an order of possession for the rental unit effective at 5:00 p.m. on August 31, 2012, after service upon the tenant.

This final, legally binding order of possession is enclosed with the landlord's Decision.

Should the tenant fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

I do not award the landlord recovery of the filing fee as I find it was not necessary to file for dispute resolution unless the tenant failed to vacate the rental unit.

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 28, 2012.

Residential Tenancy Branch