



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

O

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Landlord has made application for “Other”. It is clear from information on the Application for Dispute Resolution that the Landlord has applied for an Order of Possession because the Landlord believes that the tenancy agreement requires the Tenant to vacate at the end of the fixed term of the tenancy.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were personally served to both Respondents on August 09, 2012. The female Respondent (Tenant) did not dispute this testimony. I find these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the male Respondent did not appear at the hearing.

The Landlord and the Tenant were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Landlord submitted a copy of the tenancy agreement to the Residential Tenancy Branch, a copy of which was served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted no evidence in regards to the proceedings.

Issue(s) to be Decided

The issue to be decided is whether the Landlord is entitled to an Order of Possession pursuant to section 55 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord submitted a copy of the tenancy agreement in evidence, which appears to be signed by the Tenant. The tenancy agreement names both Respondents, but is only signed by the Tenant. The Landlord and the Tenant agree that the male Respondent was an occupant of the rental unit but that he was not a Tenant.

The tenancy agreement stipulates that the tenancy commences on March 01, 2012 and that it ends on August 31, 2012. Section 6 of the tenancy agreement stipulates that at the end of the fixed term of the tenancy the tenant “agrees to vacate the premises unless both the Landlord/Agent and the Tenant enter into a new Tenancy Agreement on or before August 31, 2012”. This term appears to be initialled by two different people.

The Tenant stated that she initialled the tenancy agreement on the first page and the third page. She stated that she “does not know” if she initialled beside section 6 of the tenancy agreement as those initials do not appear to be how she normally initials her name.

The Landlord stated that her initials appear beside section 6 of the tenancy agreement; that she watched the Tenant place her initials beside section 6 of the tenancy agreement; and that she did not fabricate the initials beside section 6 of the tenancy agreement.

The Tenant stated that she understood that she entered into a fixed term tenancy agreement that was for a period of six months. When asked why she did not comply with the requirement to vacate at the end of the fixed term she replied that she was never asked if she wanted to “renew the lease” and she acknowledged that she never offered to “renew the lease”.

The Landlord and the Tenant agree that the Landlord sent the Tenant a text message on August 09, 2012, in which she asked the Tenant if she wished to renew the tenancy agreement; that the Tenant responded that she wished to enter into a month to month tenancy agreement; that the Landlord did not agree to her offer of a month to month tenancy; that the Tenant informed the Landlord that she did not wish to discuss the tenancy until she returned home; that the Landlord attempted to continue the discussion when the Tenant returned home later that month; that the Tenant told the Landlord she would discuss the matter when it was convenient for the Tenant; and that they never did reach an agreement to continue the tenancy.

Analysis

I find that the parties entered into a fixed term tenancy agreement and that the fixed term of the tenancy agreement ended on August 31, 2012. I find that section 6 of the tenancy agreement very clearly articulates that the Tenant must vacate the rental unit at the end of the fixed term of the tenancy agreement unless the parties enter into a new tenancy agreement on, or before, August 31, 2012.

I find that the Tenant initialled section 6 of the tenancy agreement. I found the testimony of the Landlord throughout this hearing to be consistent and credible, and I could find no reason to discount her testimony that she observed the Tenant initial this section. I specifically note that the Tenant’s evidence in regards to this signature was less compelling, as she could only state that she does “not know” if she initialled beside

section 6 of the tenancy agreement and that the initials do not appear to be how she normally initials her name.

I specifically note that neither party introduced documentary evidence regarding the authenticity of the initials beside section 6. While the initials beside section 6 are not identical to the Tenant's initials that appear at the bottom of the first page, which the Tenant acknowledges are hers, I find that the initials that appear at the bottom of the first page are also not identical to the initials that appear on page 3 of the tenancy agreement, which the Tenant acknowledges are also hers. In the absence of a consistent style, I cannot conclude that the initials beside section 6 are fabricated.

Even if the section 6 had not been initialled by the Tenant, I find that this term of the tenancy agreement is very clear, and that the Tenant was obligated to comply with the term of the tenancy agreement. In reaching this conclusion I was heavily influenced by the fact that the Tenant never argued that she did not understand that she was obligated to vacate the rental unit by August 31, 2012 unless the parties reached a new tenancy agreement by August 31, 2012. Rather, she argued that she didn't vacate because the Landlord had not asked her to "renew the lease". I specifically note that the Landlord was not obligated to initiate a conversation about continuing the tenancy and was under no obligation to agree to continue the tenancy.

As the parties did not enter into a new tenancy agreement by August 31, 2012 I find that the Tenant was obligated to comply with section 6 of the tenancy agreement by vacating the rental unit by August 31, 2012. I therefore find that the Landlord is entitled to an Order of Possession pursuant to section 55(2)(c) of the *Act*. As the rent for September has been paid, I find that this Order of Possession shall be effective at 1:00 p.m. on September 30, 2012.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective on September 30, 2012. 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 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: September 10, 2012.

Residential Tenancy Branch