



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee for this proceeding.

Both parties attended the oral hearing via teleconference call and at the beginning of the hearing, the Tenant confirmed that she had been served with the Landlords' application for dispute resolution, notice of hearing and documentary evidence and that she had not submitted any documentary evidence. The Tenant claimed that she was ill however she did not request an adjournment of the hearing nor did she attend the hearing with an agent or advocate to assist her. Approximately 3 to 4 minutes after the hearing started, the Tenant left the conference call and did not dial back in for the remainder of the hearing.

After the Tenant left the conference call the Landlords applied to amend their application to include a claim for unpaid rent. However, RTB Rule of Procedure 8.4 says that a Dispute Resolution Officer may only allow such an amendment if it does not prejudice the other party or result in a breach of the principles of natural justice. As the Tenant has had no notice of the Landlord's claim for unpaid rent, I find that it would be a breach of the principles of natural justice to allow the Landlords to amend their application at this late date to include a monetary claim. Consequently, I order that the Landlords' application in this matter may not be amended to include a claim for unpaid rent and the Landlords will have to make a separate application for dispute resolution for that relief.

Issue(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?

Background and Evidence

This tenancy started on May 1, 2005. When the Tenant is eligible for a subsidy, her rent is \$510.00 per month.

The Landlords claim that on July 25, 2012, the Tenant entered into a written agreement whereby she agreed to end the tenancy on August 31, 2012 and to vacate the rental

unit on that day. The Landlords claim that the Tenant has not vacated the rental unit and has not paid rent for September or October 2012.

Analysis

Section 55(2)(d) of the Act says that a landlord may request an order of possession of a rental unit where the landlord and the tenant have agreed in writing that the tenancy is ended.

In the absence of any evidence from the Tenant to the contrary, I find that the Parties entered into a written agreement on July 25, 2012 in which they agreed that the tenancy would end on August 31, 2012 and that the Tenant would vacate the rental unit on that day. I find that as of the date of this hearing, the Tenant has not vacated the rental unit and as a result, I find that the Landlords are entitled pursuant to s. 55(2)(d) of the Act to an Order of Possession to take effect 2 days after service of it on the Tenant.

I also find pursuant to s. 72 of the Act that the Landlords are entitled to recover from the Tenant the \$50.00 filing fee they paid for this proceeding.

Conclusion

An Order of Possession to take effect 2 days after service of it on the Tenant and a Monetary Order in the amount of \$50.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant. The Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: October 24, 2012.

Residential Tenancy Branch