



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, FF

Introduction

This hearing dealt with the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order of possession for the rental unit due to an alleged breach by the tenant of an agreement with the landlord and for recovery of the filing fee.

The landlords appeared; the tenant did not appear.

The landlord, MS, testified that he served the tenant with their Application for Dispute Resolution and Notice of Hearing by leaving it with the tenant on April 11, 2013. The landlord also said that although the tenant's occupants are not his tenants, he served them with their application for dispute resolution and notice of hearing as well, on April 11, 2013.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act and the hearing proceeded in the tenant's absence.

The landlords were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for the rental unit?

Background and Evidence

The landlord provided evidence that this tenancy began on January 1, 2013, monthly rent is \$1550.00, and the tenant paid a security deposit of \$775.00 at the beginning of the tenancy.

The landlord gave evidence that due to certain conduct of the tenant, it was necessary to address the end of the tenancy.

The landlord submitted that rather than be served with a 1 Month Notice to End Tenancy for Cause, the tenant and his occupants agreed to vacate the premises on or before April 30, 2013, at 1:00 p.m.

The tenant, on March 19, 2013, and his two occupants, on March 24, 2013, all signed documents in which they agreed to vacate on or before April 30, 2013.

The landlords submitted these two documents into evidence.

According to the landlords, they believed it was necessary to file for dispute resolution as the tenant subsequently informed the landlords that he did not intend to vacate, rather he intended on "squatting" in the rental unit.

Analysis

Section 44(1)(c) of the Act states that one way a tenancy can end is when both parties agree in writing that the tenancy shall end and section 55 of the Act states that a landlord is entitled to an order of possession for the rental unit if there has been such written agreement. This section also states that an order of possession for the rental unit may be granted before or after the date the tenant is required to vacate.

In the case before me, I find the landlords submitted sufficient evidence that the parties agreed to end the tenancy and therefore the landlords are entitled to request and receive an order of possession for the rental unit.

I therefore grant the landlords an order of possession for the rental unit effective at 1:00 p.m. on April 30, 2013, pursuant to the terms of the written agreement to end the tenancy.

This final, legally binding order of possession is enclosed with the landlords' Decision and must be served on the tenant.

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. Costs of such enforcement may be recoverable from the tenant.

As the tenant and his occupants were not yet required to vacate, as per the terms of the agreement, and the tenant could just as likely vacate the rental unit as not by the agreed upon date, I do not award the landlords recovery of the filing fee.

Conclusion

The landlords' application is granted and they are granted an order of possession for the rental unit, effective at 1:00 p.m. on April 30, 2013.

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: April 19, 2013

Residential Tenancy Branch

