



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Waterford Developments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenant's application pursuant to section 49 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice). Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to discuss the tenant's application with one another. The tenant confirmed that he received the 2 Month Notice mailed to him by the landlord on March 23, 2013. The landlord's agent (the agent) testified that on April 19, 2013 he received a copy of the tenant's dispute resolution hearing package handed to the landlord's office by the tenant. I am satisfied that the above documents and the landlord's written evidence were served to one another in accordance with the *Act*.

At the hearing, the agent made an oral request for an Order of Possession if the tenant's application to set aside the landlord's 2 Month Notice were dismissed.

At the hearing, the tenant and his advocate withdrew the tenant's application to cancel the 2 Month Notice. The tenant testified that he is planning to vacate the rental unit by the end of May 2013. The tenant's application is withdrawn.

Issues(s) to be Decided

Should the landlord be granted an Order of Possession?

Background and Evidence

This tenancy began as a 5-month fixed term tenancy on July 1, 2012. At the end of this term on December 31, 2012, the tenant was to vacate the rental unit. The landlord advised the tenant in January 2013 that the landlord considered the tenancy finished by December 31, 2012, but agreed to let the tenant remain in the rental unit until renovations were to take place. Since January 1, 2013, the landlord has accepted the tenant's monthly cheques for use and occupancy only and not to continue this tenancy.

The landlord issued the 2 Month Notice as the landlord needs to commence planned renovations and extensive repairs to this rental building in June 2013. The effective date of the 2 Month Notice was May 31, 2013.

Analysis

Section 55(1) of the *Act* reads as follows:

55 (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

As the tenant has withdrawn his application to dispute the landlord's 2 Month Notice, I find that pursuant to section 55(1) of the *Act* the landlord is entitled an Order of Possession to take effect on May 31, 2013.

Conclusion

The tenant's application to set aside the 2 Month Notice is withdrawn. Pursuant to section 55(1) of the *Act*, I find that this tenancy ends on May 31, 2013, by which time the tenant is required to have vacated the rental unit. The landlord is provided with a formal copy of an Order of Possession effective by 1:00 p.m. on May 31, 2013. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme 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: May 06, 2013

Residential Tenancy Branch