



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0254831 BC Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O FF

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for "other" which in the landlord's application indicates that the landlord is seeking an order of possession due to the tenant providing their written notice to end the tenancy, plus the recovery of the filing fee.

An agent for the landlord (the "agent") attended the hearing. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of their testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The agent testified under oath that the Notice and evidence was served on the tenant by registered mail on September 3, 2013. The agent provided a registered mail tracking number in evidence and confirmed that the name and address matched the name of the tenant and the rental unit address as the tenant continues to occupy the rental unit as of the date of this hearing. In addition, the agent stated that she confirmed via the online postal website that the registered mail package was successfully delivered to the tenant which included the tenant's signature on September 11, 2013. Based on the above, I find the tenant was successfully served on September 11, 2013 when the tenant signed for the registered mail package.

Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

Background and Evidence

A copy of a written tenancy agreement was submitted in evidence. The agent confirmed that they purchased the rental unit from the original landlord. This is supported by the

tenant's "Notice to End Month-to-Month Tenancy Agreement" submitted in evidence by the agent, which is address to the first name of the agent who attended this hearing, DC, and includes the address of the rental unit and the name of the tenant. A month to month tenancy agreement began on May 1, 2008. Monthly rent was originally \$810.00 per month and due on the first day of each month. The agent stated that rent was increased during the tenancy to the current amount of \$828.00 per month. The tenant paid a security deposit of \$405.00 at the start of the tenancy which the landlord continues to hold.

The agent stated that the tenant served the landlord with a "Notice to End Month-to-Month Tenancy Agreement" (the "1 Month Notice") on July 31, 2013, which is dated July 31, 2013. According to the tenant's 1 Month Notice, the tenant indicated that his last day of tenancy would be August 31, 2013. The agent stated that the landlord relied on the tenant's 1 Month Notice and is seeking an order of possession as a result. The agent's position is that the tenant has been overholding in the rental unit since September 1, 2013, however, is currently in the process of moving out his personal items. The agent stated that since the tenant has not fully vacated the rental unit, the landlord continues to seek an order of possession.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession – I find that the documentary evidence and oral testimony supports that the tenant provided his written 1 Month Notice dated July 31, 2013 and served it on the landlord on July 31, 2013, with an effective vacancy date of August 31, 2013. The agent stated that the landlord relied on the 1 Month Notice provided by the tenant, however, the tenant failed to vacate the rental unit on August 31, 2013 and has been overholding in the rental unit since September 1, 2013. The tenant continues to occupy the rental unit.

Based on the above, I find the tenancy ended on August 31, 2013 at 1:00 p.m. by the tenant providing his written 1 Month Notice notice to the landlord to end the tenancy pursuant to section 45(1) of the *Act*. Therefore, pursuant to section 55 of the *Act*, **I grant** the landlord an order of possession **effective two (2) days** after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

As the landlord's application had merit, **I grant** the landlord the recovery of the filing fee in the amount of **\$50.00**. **I authorize** the landlord to retain **\$50.00** from the tenant's security deposit of \$409.07, which includes \$4.07 in interest accrued between the start of the tenancy on May 1, 2008 and the date of this Decision, in full satisfaction of the filing fee. As a result of the above, I find the tenant's security deposit balance to be \$359.07.

Conclusion

I grant the landlord an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

I grant the landlord the recovery of the filing fee in the amount of \$50.00. I authorize the landlord to retain \$50.00 from the tenant's security deposit of \$409.07, which includes \$4.07 in interest accrued between the start of the tenancy on May 1, 2008 and the date of this Decision, in full satisfaction of the filing fee. As a result of the above, I find the tenant's security deposit balance to be \$359.07.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 09, 2013

Residential Tenancy Branch

