



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Affordable Housing Non Profit Rental Association
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for issues concerning an Order of Possession and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail on November 07, 2013. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord testifies that this tenancy originally started on February 01, 2013 for a fixed term which ended on June 30, 2013. The landlord and tenants signed a new tenancy agreement on July 01, 2013 for a fixed term tenancy that is due to expire on November 30, 2013. This tenancy agreement has been provided in evidence and shows that the parties also agreed that the tenancy must end on November 30, 2013 and the tenants must vacate the rental unit.

The landlord testifies that they have decided not to renew the tenancy agreement and the tenants have been notified of this decision. The landlord testifies that the male tenant indicated to the manager that they would not vacate the rental unit on November 30, 2013. The landlord therefore seeks an Order of Possession effective two days after service upon the tenants.

Analysis

The tenants did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenants, I have carefully considered the landlords documentary evidence and sworn testimony before me.

The tenancy agreement provided in evidence clearly states that the tenancy is for a fixed term and must end on November 30, 2013. The tenants have initialed the boxes by this clause in the agreement to show that they agree to move out on November 30, 2013. The tenants have indicated to the landlord that they are not going to move out on this date. I refer the parties to section 44(1)(b) of the *Residential tenancy Act (Act)* which states that the tenancy will end if the tenancy agreement is a fixed term tenancy agreement that provides that the tenants will vacate the rental unit on the date specified as the end of the tenancy; Consequently, I am satisfied with the evidence before me

that the tenancy must end on November 30, 2013 and therefore I find the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days after service** on the tenants. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to be reimbursed for the **\$50.00** cost of filing this application. I order that the landlord retain this amount from the security deposit of \$450.00 leaving a balance \$400.00 which must be returned to the tenants or otherwise dealt with in compliance with section 38 of the *Act*.

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: November 27, 2013

Residential Tenancy Branch

