



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the *Act*) for an Order of Possession. The tenants did not attend this hearing, although I waited until 1:40 p.m. in order to enable them to connect with this teleconference hearing scheduled for 1:30 p.m. One of the landlords (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. She gave sworn testimony that she sent both tenants copies of the landlords' dispute resolution hearing packages by registered mail on February 12, 2014. She provided the Canada Post Tracking Numbers to confirm these registered mailings and gave sworn testimony that Canada Post's records reveal that the packages were successfully delivered to the tenants on February 13, 2014. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlords' hearing packages on February 18, 2014, the fifth day after their mailing.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession due to the tenants' failure to vacate the rental unit in accordance with the terms of their fixed term tenancy agreement?

Background and Evidence

On August 28, 2013, the parties signed a fixed term Residential Tenancy Agreement (the Agreement) that was to begin on August 29, 2013 and end on January 31, 2014. According to the terms of the Agreement, both parties initialled that the tenants would vacate the rental premises by January 31, 2014. Monthly rent was set at \$1,200.00, payable in advance on the first of each month. The parties also had an agreement whereby the landlords would allow the tenants to deduct expenses they would incur to renovate the rental unit from their monthly rent payments.

The landlords applied for dispute resolution to obtain an Order of Possession because the tenants did not abide by the provision of their Agreement requiring them to vacate the rental unit by January 31, 2014. The landlord testified that she is uncertain as to

whether the tenants have vacated the rental unit as some of their belongings appear to remain in the rental unit. She requested an Order of Possession.

Analysis

Based on the undisputed evidence provided by the landlords, I find that the tenants have contravened section 2 of their Agreement with the landlords by failing to vacate the rental unit at the end of their fixed term tenancy (i.e., by January 31, 2014). Under these circumstances, section 55(2)(c) of the *Act* does not require a landlord to issue a Notice to End Tenancy in order to obtain an Order of Possession. I therefore issue a 2-day Order of Possession to the landlord in accordance with section 55(2)(c) of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). 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: March 31, 2014

Residential Tenancy Branch

