



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OP, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy is from September 01, 2013 to August 30, 2014. Monthly rent of \$1,680.00 is due and payable in advance on the 30th day of each month. A security deposit of \$840.00 was collected. As well, a "garage door controller deposit" in the amount of \$100.00 was collected.

The tenancy agreement provides that at the end of the fixed term, "the tenancy ends and the tenant must move out of the residential unit." Both parties have initialled the applicable boxes on the tenancy agreement, acknowledging their understanding and acceptance of this particular term of the agreement.

Despite the above, the landlord is concerned that the tenant is not prepared to vacate the unit on August 30, 2014. Accordingly, the landlord seeks an order of possession.

During the hearing the parties undertook to resolve the dispute.

Analysis

Section 63 of the Act speaks to the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that the tenancy will end no later than **Wednesday, October 01, 2014**, and that an **order of possession** will be issued in favour of the landlord;
- that rent for the month of September 2014 will remain unchanged from **\$1,680.00**;
- that if the tenant vacates the unit prior to October 01, 2014, the landlord will reimburse the tenant's rent for the remaining "unused" days in September 2014 on a pro-rated / *per diem* basis;
- that the tenant will cease any further use of the landlord's garage effective August 31, 2014, and will return the landlord's "garage door controller;"
- that in exchange for the return of the "garage door controller," the landlord will repay the tenant's \$100.00 "garage door controller deposit;"

As the landlord has succeeded with this application to obtain an order of possession, I find that the landlord has established entitlement to recovery of the **\$50.00** filing fee. I order that the landlord may recover the filing fee by way of withholding that amount from the tenant's security deposit at the end of tenancy.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **Wednesday, October 01, 2014**. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the landlord may withhold **\$50.00** from the tenant's security deposit in order to recover the filing fee.

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: August 21, 2014

Residential Tenancy Branch

