



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

O, FF

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for “other” and to recover the fee for filing an Application for Dispute Resolution. It is apparent from information provided on the Application for Dispute Resolution that the Landlord is seeking an Order of Possession.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied for “other”. It is apparent from information provided on the Application for Dispute Resolution that the Tenant does not wish to vacate the rental unit.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

The Landlord stated that she was unable to serve the Respondent with the initials “M.S.” with the Application for Dispute Resolution and the Notice of Hearing. As this party was not served with notice of these proceedings, I dismiss the Landlord’s application for an Order of Possession naming this party.

The Landlord stated that the documents she submitted to the Residential Tenancy Branch were all personally served to the Tenant on September 09, 2014. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

The Tenant submitted no evidence in regards to these matters.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession or should the Tenant be permitted to remain in the rental unit?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on April 01, 2014 and that she and two other people are named on the tenancy agreement.

The Landlord and the Tenant agree that the Tenant was served with a Ten Day Notice to End Tenancy, which declared the tenancy would end on June 15, 2014. The parties agree that the Tenant did not vacate the rental unit on the basis of this Notice.

The Landlord and the Tenant agree that the Tenant was served with a One Month Notice to End Tenancy, which declared the tenancy would end on July 05, 2014. The parties agree that the Tenant did not vacate the rental unit on the basis of this Notice.

The Landlord and the Tenant agree that the Tenant and the Landlord signed a mutual agreement to end the tenancy on August 31, 2014, a copy of which was submitted in evidence.

The Tenant contends that she signed this agreement "under duress". She stated that there were no threats made to her nor was she offered compensation for signing the agreement. She stated that she felt pressured to sign the agreement because the Landlord repeatedly asked her to sign the agreement.

The Landlord stated that she only asked the Tenant to sign the agreement on two occasions and that the Tenant signed the agreement the second time she was asked.

The Tenant stated that her co-tenant told her that the mutual agreement is not valid if it is not signed by all of the parties named on the tenancy agreement.

The Landlord and the Tenant agree that rent has been paid for October of 2014. The Tenant stated that the rent for November has been mailed to the Landlord and the Landlord stated it has not yet been received. The Landlord stated that she will not cash this cheque if/when it is received.

Analysis

Section 44(1)(c) of the *Residential Tenancy Act (Act)* stipulates that a tenancy ends if the landlord and the tenant agree, in writing, that the tenancy ends. On the basis of the undisputed evidence, I find that the Tenant and the Landlord mutually agreed, in writing, that the tenancy would end on August 31, 2014. I therefore find that the Tenant was

obligated to vacate the rental unit on that date and I dismiss the Tenant's application to remain in the rental unit.

As the Tenant has not yet vacated the rental unit, I find that the Landlord is entitled to an Order of Possession. As rent has been paid for October of 2014 the Order of Possession will be effective on October 31, 2014.

In determining this matter I find that the Tenant submitted insufficient evidence to show that she was coerced into signing the mutual agreement, given that no threats were made nor were any inducements offered. I also find that the Tenant has submitted insufficient evidence to show that the Landlord repeatedly asked her to sign the agreement, as there is no evidence to corroborate that testimony or to refute the Landlord's testimony that she only asked the Tenant to sign the mutual agreement on two occasions. I do not find two requests to sign the document to be unreasonable.

As there are three people named on this tenancy agreement, I find that they are co-tenants. Any of the co-tenants had the right to end the tenancy, as they are jointly responsible for the tenancy. I therefore find that the mutual agreement signed by this Tenant ended the tenancy for all of the parties named on the tenancy agreement.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective **at 1:00 p.m. on October 31, 2014**. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$50, in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution and I grant the Landlord a monetary Order for this amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: October 23, 2014

Residential Tenancy Branch

