



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on December 1, 2014, and amended December 4, 2014, to end this tenancy early (ET), obtain an Order of Possession;; and to recover the cost of the filing fee from the Tenants for this application.

The hearing was conducted via teleconference and was attended by the Landlord, one Tenant G.M. and the Tenant's advocate. Each party gave affirmed testimony and G.M. confirmed that he was representing both Tenants at this hearing. Therefore, for the remainder of this decision, terms or references to the Tenants importing the singular shall include the plural and vice versa.

Residential Tenancy Branch Rule of Procedure 3.15 states that the respondent's evidence must be received by the applicant and the Residential Tenancy Branch not less than 7 days before the hearing. At least" excludes the day the evidence is received; the day of the hearing; and any weekend days or statutory holidays in between.

The Tenant confirmed receipt of evidence served by the Landlord. No evidence had been received on the RTB file from the Tenant prior to this hearing. The Tenant submitted that his evidence was sent to the Residential Tenancy Branch by registered mail on December 31, 2014. He stated that he delayed in submitting his evidence because he had to have his photographs developed.

Based on the above, I find the Tenant did not serve his evidence in accordance with the # 3.15 of the Rules of Procedure; therefore, I declined to consider the Tenant's documentary evidence if received to file after the hearing. I did however consider the Tenant's testimony

At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Have the parties agreed to settle these matters?

Background and Evidence

The undisputed evidence was that the parties entered into a month to month tenancy that began on February 15, 2012. Rent of \$950.00 is due on or before the first of each month and on February 15, 2012 the Tenants paid \$475.00 as the security deposit plus \$250.00 as the pet deposit.

During the course of this proceeding the parties agreed to settle these matters.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute on the following terms:

- 1) The Landlord agreed to withdraw their application for dispute resolution;
- 2) The Tenants agreed to pay their January 1, 2015 rent of \$950.00, by depositing the full amount of \$950.00 directly into the Landlord's bank account (as provided during the hearing and confirmed by the Advocate) no later than 5:00 p.m. on January 7, 2015;
- 3) If the Tenants pay the January 1, 2015 rent as agreed in # 2) above, then the parties mutually agree to end this tenancy effective January 31, 2015 at 1:00 p.m. upon service of the Order of Possession; and
- 4) If the Tenants fail to pay the January 1, 2015 rent as agreed in # 2) above, then the tenancy ends once the Landlord serves the conditional Order of Possession which is effective 2 days upon service.

The parties agreed to settle these matters; therefore, I declined to award recovery of the filing fee.

Conclusion

The parties agreed to settle these matters, pursuant to section 63 of the Act.

In the event the Tenants do not pay the \$950.00 rent in accordance with the above listed agreement, the tenancy will end and the Landlord may serve the Tenants the Order of Possession that is effective 2 days upon service.

If the \$950.00 payment is made in accordance with the settlement agreement listed above, the conditional 2 day Order of Possession will become void and of no force or effect and the tenancy will end January 31, 2015.

In support of the settlement agreement, the Landlord has been issued an Order of Possession effective January 31, 2015. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia Supreme 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: January 06, 2015

Residential Tenancy Branch

