



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, FF, O

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession for breach of an agreement, and to recover the filing fee from the tenants for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material prior to the commencement of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on February 25, 2015, no one for the tenants attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participant who joined the call was the landlord. The landlord testified that the documents were served on that date and in that manner and has provided 2 Canada Post cash register receipts showing that date as well as 2 Registered Domestic Customer Receipts addressed to each of the tenants. I find that the tenants have been served in accordance with the *Residential Tenancy Act*.

All evidence and the testimony of the landlord have been reviewed and are considered in this Decision.

Issue(s) to be Decided

Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for the tenants' failure to comply with an agreement?

Background and Evidence

The landlord testified that this tenancy began 3 or 4 years ago and the tenants still reside in the rental unit. Rent in the amount of \$1,686.30 is payable in advance on the 1st day of each month and there are no rental arrears. No security deposit or pet

damage deposit were collected from the tenants. The rental unit includes property and the tenants have 28 horses.

The parties entered into a written fixed-term tenancy, a copy of which has been provided, which ends the tenancy on February 28, 2015. The tenancy agreement is signed by a landlord on June 16, 2014 and by a tenant. The date beside the tenant's signature is not entirely legible, but appears to be on the 9th day of a month in 2014. The term respecting the length of the tenancy states: "for a fixed length of time ending on 28 Feb 2015; at the end of this fixed length of time the tenancy ends and the tenant must move out of the rental unit." An initial of a landlord and of a tenant appear in the boxes beside that recital of the form.

The tenants have not moved out of the rental unit. The landlord has some empathy for the tenants' responsibilities with the horses, and the landlord seeks an Order of Possession effective April 30, 2015.

Analysis

The *Residential Tenancy Act* is clear with respect to ending a tenancy:

55 (2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

- (a) a notice to end the tenancy has been given by the tenant;
- (b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;
- (c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term;
- (d) the landlord and tenant have agreed in writing that the tenancy is ended.

(Underlining added)

In this case, I am satisfied that the tenants agreed in writing to end the tenancy effective February 28, 2015 and the landlord is entitled to an Order of Possession.

With respect to the effective date of vacancy, the *Act* goes on to say:

(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

The landlord has requested that the Order of Possession be effective April 30, 2015 and I so order.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective April 30, 2015 at 1:00 p.m.

I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Sections 67 and 72 of the *Residential Tenancy Act* in the amount of \$50.00.

These orders are final and binding and may be enforced.

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 25, 2015

Residential Tenancy Branch

