



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PENTICTON APARTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OP, FF

Introduction

This hearing was convened in response to an application by the landlord for an Order of Possession pursuant to Section 55(2)(c) of the *Residential Tenancy Act* (the Act) and to recover the filing fee. The hearing was conducted by conference call.

I accept the landlord's evidence that despite both tenants having been personally served with the application for dispute resolution and notice of hearing in accordance with Section 89(2) of the Residential Tenancy Act (the Act) neither tenant participated in the conference call hearing. The landlord in attendance testified that they served one of the tenants with both Notice of Hearing packages in satisfaction of Section 89(2)(a) and (c) of the Act: all of which was witnessed by the landlord's spouse. The landlord stated they also provided the tenant with a copy of the tenancy agreement.

The landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover their filing fee?

Background and Evidence

It is undisputed that the tenancy began on November 01, 2014 as a fixed term tenancy for 5 months ending March 31, 2015. The hearing had benefit of a copy of the tenancy agreement: a contract. The tenancy agreement prescribes that the tenant will vacate the rental unit at the end of the fixed length of time of the agreement, and the parties completed this section of the tenancy agreement - each confirming this term of the agreement by their respective initials beside this election to end the fixed agreement, and for the tenant to vacate at the end of it. Therefore, the landlord seeks an Order of

Possession claiming the tenancy has ended as per the tenancy agreement ending March 31, 2015.

Analysis

Section 44 of the Act states: **(for ease)**

How a tenancy ends

44 (1) A tenancy ends only if one or more of the following applies:

(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:

- (i) section 45 *[tenant's notice]*;
- (ii) section 46 *[landlord's notice: non-payment of rent]*;
- (iii) section 47 *[landlord's notice: cause]*;
- (iv) section 48 *[landlord's notice: end of employment]*;
- (v) section 49 *[landlord's notice: landlord's use of property]*;
- (vi) section 49.1 *[landlord's notice: tenant ceases to qualify]*;
- (vii) section 50 *[tenant may end tenancy early]*;

(b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;

(c) the landlord and tenant agree in writing to end the tenancy;

(d) the tenant vacates or abandons the rental unit;

(e) the tenancy agreement is frustrated;

(f) the director orders that the tenancy is ended.

Section 55 of the Act, in part, provides that: **(for ease)**

Order of Possession for Landlord

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;

I find the tenancy has ended in accordance with the terms of the tenancy agreement in this matter. As the tenancy ended March 31, 2015, I find that the landlord is entitled to an **Order of Possession** effective forthwith. The landlord is entitled to recover their filing fee.

Conclusion

I grant an Order of Possession to the landlord **effective 2 days** from the day it is served on the tenant. The tenant must be served with this Order of Possession. 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 retain **\$50.00** from the tenant's security deposit in satisfaction of the filing fee.

This Decision is final and binding on both parties.

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: April 27, 2015

Residential Tenancy Branch