



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

This hearing dealt with the landlord's application under the *Residential Tenancy Act* ("the *Act*") for an Order of Possession pursuant to a mutual agreement to end tenancy.

Representatives for both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. An agent attended and made submissions on behalf of the landlord. Tenant TW testified that he represented himself and his co-tenant, Tenant PC. The landlord's agent ("the landlord") testified that the landlord had served the tenant with a copy of the landlord's dispute resolution hearing package by registered mail on March 13, 2015. Tenant TW confirmed receipt of the package and Notice for Hearing on behalf of both tenants. Based on the evidence at hearing, and pursuant to section 89 and 90 of the *Act*, I find that the tenants have both been served the landlord's dispute resolution hearing package.

Issues to be Decided

Is the landlord entitled to an Order of Possession to reflect the mutual agreement of the parties to this tenancy?

Background and Evidence

This tenancy began in 2002 and has a current rental amount of \$2875.00 payable on the first of each month. After negotiations to end the tenancy, the tenant and landlord signed a mutual agreement to end tenancy with the following terms;

- The parties ...agree to terminate the Tenancy ... at 13:00 hrs on Sunday the 31st of May 2015. The tenant agrees to give peaceful and vacant possession of the said premises at that time.
- This agreement is made in consideration of the Landlord allowing the tenant to withhold rent for the months of April and May 2015 in the amount of \$2875.00 each for moving expenses.

The landlord applied to secure an Order of Possession reflecting the agreed end of tenancy date of May 31, 2015 at 1:00 p.m.

The tenant did not dispute that he and his co-tenant had entered into the mutual agreement to end tenancy. The tenant testified that he and his co-tenant intend to vacate the rental unit on May 31, 2015 as agreed. The tenant stated, in his sworn testimony, that he did not believe he had been treated fairly by the landlord or their representatives. He also testified that an Order of Possession was unnecessary, given that he had agreed in writing to end the tenancy pursuant to section 44(1)(c) and signed the agreement to that effect.

Analysis

With respect to ending a tenancy by way of agreement, section 55 of the *Residential Tenancy Act* states,

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.

(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.

Given the agreement in writing confirmed in testimony by both parties at this hearing, I grant an Order of Possession effective May 31, 2015.

Conclusion

The landlord is provided with a formal copy of an Order of Possession effective May 31, 2015. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 15, 2015

Residential Tenancy Branch

