



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPN, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an Order of Possession based on a Tenant's notice to end tenancy, and a Monetary Order to recover the filing fee for the Application.

Only the Landlord, L.P., appeared at the hearing. She appeared on her own behalf and as agent for her husband, who was the other named landlord. She gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions to me.

L.P. testified she individually served both the Tenants with the Notice of Hearing and the Landlord's Application materials on June 12, 2015 by registered mail. Copies of the registered mail receipts and tracking numbers were introduced in evidence. Under the Act documents served this way are deemed served five days later; accordingly, I find the Tenants were duly served as of June 17, 2015.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Are the Landlords entitled to an Order of Possession?
2. Should the Landlords recover the filing fee?

Background and Evidence

Introduced in evidence was a copy of a residential tenancy agreement dated September 30, 2013 which indicated that the tenancy began November 1, 2013; monthly rent is \$2,400.00; and the Tenants paid a security deposit of \$1,200.00.

Introduced in evidence was an email from the Tenant, P.R., to the Landlord E.P. dated May 13, 2015 wherein the P.R. wrote that he and A.R. would be moving out of the rental unit on July 1, 2015. Also introduced in evidence was text messages between the Tenants and the Landlords between May 21, 2015 and May 25, 2015 regarding the Landlords request that the Tenants provide written notice. In the final text, sent at 6:24 p.m. on May 25, 2015, the Tenants confirm they dropped off the notice in the mailbox. Also introduced in evidence was a copy of the written notice from the Tenants which was signed and dated, as well as providing the rental units address.

L.P. testified that the Tenants have now indicated they may not move out on July 1, 2015. The Landlords do not consent to the Tenants withdrawing their notice to end tenancy and seek an Order of Possession based on the Tenants notice.

Analysis

The Tenants Notice to End Tenancy, given by email and by written letter provided to the Landlords on May 25, 2015 comply with sections 45 (Tenant's Notice) and 52 (Form and Content of Notice) of the Act. Accordingly, the Tenants have ended the tenancy on the effective date of the notice, namely July 1, 2015.

Section 55 provides authority for granting an Order of Possession when a tenant gives notice; the relevant sections are as follows:

Order of possession for the 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;

Accordingly, the Landlords are entitled to an Order of Possession effective 1:00 p.m. on July 1, 2015. The Order must be served on the Tenants by the Landlords and may be filed in the B.C. Supreme Court and enforced as an Order of that Court.

The Landlords, having been substantially successful, are entitled to recover the filing fee. Pursuant to section 38(3)(a) I Order that the Landlords may deduct \$50.00 from the security deposit held in trust to compensate them for the \$50.00 filing fee.

Conclusion

The Landlords are entitled to an Order of Possession based on the Tenants' notice to end tenancy. That Order shall be effective 1:00 p.m. on July 1, 2015. The Landlords may retain \$50.00 from the security deposit to recover the filing fee.

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: June 26, 2015

Residential Tenancy Branch

