



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MT, OPB, MNDC, FF

Introduction

This hearing had been scheduled to deal with cross applications. The tenant had filed an Application indicating she wished to dispute a 1 Month Notice to End tenancy for Cause, more time to make the Application, and that the landlord was seeking to end the tenancy based upon the lease agreement. The landlord had applied for an Order of Possession on the basis the fixed term tenancy had ended and the tenants were required to vacate the unit pursuant to the tenancy agreement and monetary compensation for damage or loss under the Act, regulations or tenancy agreement.

At the scheduled hearing, legal counsel appeared on behalf of the landlord. There was no appearance by the landlord or the tenant. The landlord's lawyer confirmed that the landlord was in receipt of the tenant's Application and I was provided a copy of a registered mail receipt as evidence the landlord had served the tenant with his Application by registered mail sent to her at the rental unit on July 10, 2015. I was satisfied that both parties had been served with the other party's Application.

The landlord's lawyer submitted that the parties had reached a settlement agreement in the days preceding this hearing. A copy of the signed settlement agreement had been sent to the Branch and was before me. The landlord's lawyer requested that the landlord be provided an Order of Possession effective August 7, 2015 as agreed upon by the parties in their settlement agreement and requested that the landlord's monetary claim be withdraw without prejudice.

Since the tenant did not appear at the hearing, I dismissed her Application.

I have recorded the withdrawal of the landlord's monetary claim and the landlord is at liberty to file a subsequent Application against the tenant for monetary compensation should she breach their agreement or the Act.

In light of the above, the only decision before me is whether the landlord is entitled to an Order of Possession as requested.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

In filing his Application, the landlord submitted that the tenancy was for a fixed term with an expiry date of June 30, 2015 and that the co-tenants were required to vacate the rental unit at the end of the fixed term. The landlord submitted two copies of a tenancy agreement. The tenancy agreement signed by the parties on June 11, 2014 did not indicate the start and end date of the tenancy as these spaces were left blank but the box that indicates the tenants were to vacate the rental unit at the end of the tenancy was ticked and initialled by the parties in the space beside that box. The landlord submitted a second copy of the tenancy agreement that indicated the tenancy was for a fixed term that had a start date of June 1, 2014 and an end date of June 30, 2015. This amendment was initialled by the landlord and one of the co-tenants, referred to by initials CB. The landlord had submitted that the amendment to the tenancy agreement was done to correct the mutual error in omitting the required information and that the amendment was made on or about August 6, 2014.

The tenant did not appear at the hearing and made no written submissions to counter the landlord's position that the tenancy agreement had been amended.

The settlement agreement provided for my review is signed by both parties in the presence of a witness on July 29, 2015 and includes the following terms, among others:

1. The tenant agrees to vacate the property on or before 3:00 p.m. on Friday, August 7, 2015.
2. The Tenant agrees that upon vacating the Property, she will immediately surrender to the landlord the Tenant's keys to the Property and any other means of access in her possession or control.

Analysis

The Act provides that where a tenant is required to vacate the rental unit at the end of a fixed term, the landlord may apply for an Order of Possession.

Upon consideration of the evidence before me and the landlord's undisputed submissions that the tenancy was set for a fixed term to expire on June 30, 2015 and the co-tenants were required to vacate the rental unit by that date pursuant to the amended tenancy agreement, I find the landlord entitled to an Order of Possession under the Act.

Pursuant to the settlement agreement, I accept that the landlord has agreed to permit the tenant occupancy of the rental unit until 3:00 p.m. on August 7, 2015. Therefore, I provide to the landlord an Order of Possession effective at 3:00 p.m. on August 7, 2015.

Conclusion

The landlord has been provided an Order of Possession effective at 3:00 p.m. on August 7, 2015 to serve upon the tenant and enforce as necessary and appropriate. The landlord's monetary claims against the tenant have been withdrawn without prejudice.

The tenant's application has been dismissed.

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: July 30, 2015

Residential Tenancy Branch

