



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession.

The landlords attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlords testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on August 7, 2015, Canada post tracking numbers were provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

Preliminary matter

On September 14, 2015, the landlords' filed an amendment to their application and served the amendment by registered mail on the same date.

Under the Residential Tenancy Branch Rules of Procedures 2.11, if the application has been served, a copy of the amended application must be served on each respondent so that they **receive it at least 14 days** before the scheduled date for dispute resolution hearing.

In this case, the landlords did not comply with the rules and the amendment would not have been deemed received unit file days after it was mailed. Therefore, I have not

allowed the landlords amendment to their application. The landlords are at liberty to apply for unpaid rent.

Issue to be Decided

Are the landlords entitled to an order of possession?

Background and Evidence

The landlords indicated that the tenancy commenced prior to their purchase of the property. The landlords stated that on March 1, 2015, the parties entered into a new 6 months fixed term agreement commencing April 1, 2015, which the tenants must move out of the rental unit at the end of the term.

Filed in evidence is a copy of the six month fixed term tenancy agreement, which supports the landlords position that the tenants must move-out at the end of the fixed term.

The landlords indicated that they are unsure if the tenants are going to vacate as they have had no recent communication with the tenants.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Under section 44 (1)(b) of the Act, a tenancy ends if the tenancy agreement is a fixed term tenancy that provides that the tenants will vacate the rental unit on a date specified as the end of the tenancy.

In this case, the tenancy agreement is a fixed term that the tenants will vacate at the end of six months, September 31 2015. Although I note there is not 31 days in September 2015, I find it is reasonable to conclude that the date to vacate was September 30, 2015. However, the landlords have agreed to allow the tenants one extra day to vacate the rental unit to cover the date error.

I find that the landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective **October 1, 2015 at 1:00pm**. A copy of this order must be served on the tenants.

This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlords are entitled to an order of possession.

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: September 28, 2015

Residential Tenancy Branch

