



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an early end to this tenancy and an Order of Possession, pursuant to section 56.

The five tenants, including tenant KW, tenant SS, tenant RO, tenant JS and tenant LJ, and "agent GJ" ("all present tenants") and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 75 minutes in order to allow all present parties to fully present their submissions and negotiate a settlement.

Tenant SS confirmed that he is the father of tenant JS and had authority to speak on his behalf. Tenant KW and agent GJ confirmed that they are the mother and father, respectively, of tenant LJ and had authority to speak on his behalf. All of these tenants, with the exception of agent GJ, are collectively referenced as the "residing tenants."

One tenant named in this application, "tenant MM" did not attend this hearing and no parties represented him as an agent at this hearing. Two other tenants, "tenant AM" and "tenant BO," who are not named in this application but were to be tenants-occupants in this rental unit, were also not present at this hearing. Tenant AM, whose father is tenant MM, was not represented at this hearing. Tenant RO, who is the mother of tenant BO, also represented him as an agent at this hearing.

All six tenants named in this application are collectively referenced as "named tenants." All named tenants, as well as the two unnamed tenants, tenant AM, and tenant BO, are collectively referenced as "all tenants" in this decision. The tenants and landlord who attended this hearing are collectively referenced as "all present parties." All tenants,

whether in attendance at this hearing or not, and the landlord are collectively referenced as “all parties.”

All present tenants confirmed receipt of the landlord’s application for dispute resolution hearing package (“Application”). In accordance with sections 89 and 90 of the *Act*, I find that all named tenants were duly served with the landlord’s Application.

The landlord confirmed receipt of tenant KW, tenant LJ and agent GJ’s written evidence package on the night before this hearing. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with this written evidence package. The landlord confirmed that she had read this written evidence and was prepared to proceed with this hearing. Accordingly, with the landlord’s consent, I considered this written evidence at this hearing and in my decision.

Issues to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

Background and Evidence

All present parties agreed that this tenancy began on August 23, 2015 and was for a fixed term of one year to end on August 22, 2016, after which the tenants were required to vacate the rental unit. All present parties agreed that a security deposit of \$800.00 was paid by the tenants and the landlord continues to retain this deposit.

The landlord stated that monthly rent in the amount of \$1,600.00 is payable on the first day of each month, as per the tenancy agreement. All present tenants confirmed that the monthly rent was \$1,450.00 per month, as per a verbal agreement with the landlord, and as per rent payments made to the landlord to date, during this tenancy.

A copy of the tenancy agreement was provided for this hearing. The tenancy agreement lists four tenants on the tenancy agreement: tenant KW, tenant SS, tenant RO and tenant MM. Those four tenants, who never occupied the rental unit, are parents of four minor children, as noted above. Only two of the four minor children occupied the rental unit during this tenancy, tenant JS and tenant LJ, who are both 18 years old. The other two minor children, tenant AM and tenant BO, never occupied the rental unit.

The landlord seeks an order of possession against all named tenants.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, all present parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Although tenant MM, tenant AM and tenant BO did not attend this hearing, I find that this settlement agreement does not prejudice them in any way. As the landlord has agreed to release all tenants, including tenant MM, tenant AM and tenant BO, from past and future loss of rent claims under the fixed term tenancy agreement, I find that this agreement is beneficial to all tenants. Therefore, although this settlement agreement was made between all present parties at this hearing, it is binding upon all parties, as there is no prejudice, only benefit, to the tenants not present at this hearing.

All present parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. All parties agreed that this tenancy will end by 1:00 p.m. on December 31, 2015, by which time tenant JS, tenant LJ and any other occupants will have vacated the rental unit;
2. The landlord agreed not to pursue any future loss of rent from January 1, 2016 until August 22, 2016, against all tenants arising out of the fixed term tenancy agreement;
3. The landlord agreed not to pursue any past loss of rent from August 23, 2015 to December 31, 2015, against all tenants arising out of the fixed term tenancy agreement, despite the fact that all present parties disagreed about the amount of monthly rent due under the tenancy agreement;
4. The landlord agreed that for the purposes of this settlement agreement, all rent has been paid in full under this tenancy agreement, until December 31, 2015;
5. All parties agreed that this settlement agreement does not prejudice the future application, filed by tenant RO and tenant MM against the landlord, and that application and hearing will proceed as scheduled on May 20, 2016 at 1:30 p.m., the file number of which appears on the front page of this decision; and
6. All parties agreed that this settlement agreement constitutes a final and binding resolution of the landlord's Application at this hearing and any issues arising out of this dispute.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. All present parties gave verbal sworn affirmation at the hearing that they understood and agreed to the above settlement terms, free of any duress or coercion. All present parties testified that they understood and agreed that the above settlement terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

Conclusion

To give effect to the settlement reached between the parties, and as advised to all present parties during the hearing, I issue the attached Order of Possession against the residing tenants to be used by the landlord **only** if condition #1 of the above agreement is violated. The residing tenants, including the parents, tenant KW and tenant SS, are named on the Order of Possession as they are named on the tenancy agreement and are parents of the two minor children, tenant LJ and tenant JS. The landlord is provided with this Order in the above terms and this Order must be served upon the residing tenants in the event that condition #1 of the above agreement is violated. Should the residing tenants 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: December 24, 2015

Residential Tenancy Branch

