



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, OPB

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by both landlords and one of the tenants.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for landlord's use of property and/or by mutual agreement, pursuant to Sections 44, 49, and 55 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began in April 2015 as a month to month tenancy for the monthly rent of \$400.00 due the last week of each month.

The landlord submitted the following documents as evidence:

- A copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property issued August 25, 2015 with an effective vacancy date of November 1, 2015 citing the landlord has all the necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant; and
- A copy of a Mutual Agreement to End a Tenancy signed by the male landlord and both tenants acknowledging the tenants agree to vacate the rental unit no later than 1:00 p.m. on the 1st of March 2016.

The tenant testified that he had signed the Mutual Agreement to End a Tenancy but that his brother did not. The tenant testified that he signed his brother's name.

Analysis

Section 44(1) of the *Act* states a tenancy ends only if one or more of the following applies:

- a) The tenant or landlord gives a notice to end the tenancy in accordance with one of the following:
 - i. Section 45 (tenant's notice);
 - ii. Section 46 (landlord's notice: non-payment of rent);
 - iii. Section 47 (landlord's notice: cause);
 - iv. Section 48 (landlord's notice: end of employment);
 - v. Section 49 (landlord's notice: landlord's use of property);
 - vi. Section 49.1 (landlord's notice: tenant ceases to qualify);
 - vii. Section 50 (tenant may end tenancy early);
- b) The tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;
- c) The landlord and tenant agree in writing to end the tenancy;
- d) The tenant vacates or abandons the rental unit;
- e) The tenancy agreement is frustrated; or
- f) The director orders the tenancy is ended.

Residential Tenancy Policy Guideline 13 states that co-tenants are jointly and severally responsible for meeting the terms of their tenancy agreement. As such, when one tenant signs a mutual agreement to end the tenancy the requirements under Section 44(c) are satisfied.

In the case before me I find the tenant who attended the hearing had signed the Mutual Agreement to End a Tenancy and as such the tenants are bound to vacate the rental unit in accordance with the Mutual Agreement.

Conclusion

I find the landlord is entitled to an order of possession effective **March 1, 2016 after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: January 19, 2016

