



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Landlords' Application made November 29, 2015: OPM

Tenants' Application made December 2, 2015: OPT; OLC; MNDC; O

Introduction

This Hearing was convened to consider cross-applications. The Landlords seek an Order of Possession. The Tenants seek an Order of Possession, and Order that the Landlords comply with the Act, regulation or tenancy agreement; compensation for damage or loss under the Act, regulation or tenancy agreement; and "other" orders.

The parties gave affirmed testimony at the Hearing.

Issues to be Decided

- Is either party entitled to an Order of Possession of the rental unit?
- Are the Tenants entitled to monetary compensation and other orders?

Background and Evidence

The Landlords testified that the Notice of Hearing documents and their initial evidence package were mailed to each of the Tenants, via registered mail, to the rental unit December 1, 2015. The Landlords provided a copy of the registered mail receipts and tracking numbers.

The Tenant AMc stated that she moved out of the rental unit on November 30, 2015, and therefore did not receive the documents.

The Landlords stated that AMc moved out on December 13, 2015, and that the Landlords returned ½ of the security deposit to AMc on December 13, 2015.

AMc acknowledged that she had received ½ of the security deposit from the Landlords. She stated that she was still seeking an Order of Possession of the rental unit because she wanted to move back into the rental unit.

The Landlords indicated that the Tenant PC had made an additional Application for Dispute Resolution which is scheduled to be heard on February 24, 2016. The

Landlords requested that this additional Application also be heard today. I explained to the parties that the Tenant PC did not make his additional Application in time for it to be heard with these matters and therefore it would not proceed today. The Landlords testified that they served an additional evidence package to the Tenant PC on January 14, 2016, by registered mail. The Landlords provided a copy of the Canada Post tracking information of the additional evidence package, which included a certificate of service confirming that PC signed for the package on January 16, 2016.

The Landlords provided a copy of the tenancy agreement, signed by both Tenants on November 15, 2015. Monthly rent is \$830.00, due on the first of the month. The Tenants paid \$830.00 to the Landlords on November 15, 2015, which represented ½ a month's rent for November, 2015, and the \$415.00 security deposit.

The Landlords provided a copy of a Mutual Agreement to End a Tenancy dated November 23, 2015, signed by PC and effective November 30, 2015. The Landlords stated that PC is still living in the rental unit, contrary to the agreement to end the tenancy.

Analysis

Based on the Landlords' affirmed testimony and the documentary evidence provided by the Landlords, I am satisfied that the Tenant PC was duly served with the Notice of Hearing documents and documentary evidence by registered mail. Despite being served with the Notice of Hearing documents, PC did not sign into the teleconference and the Hearing proceeded in his absence. The teleconference remained open for 20 minutes.

This was a co-tenancy. I find that the tenancy ended on November 30, 2015, pursuant to the Mutual Agreement to End a Tenancy dated November 23, 2015. I am satisfied that the Tenant AMc has vacated the rental unit; however, I find that PC is over holding and that the Landlords are entitled to an Order of Possession effective 2 days after service of the Order on the Tenant PC.

The Tenants' Application is dismissed.

I explained to AMc that the tenancy ended November 30, 2015, and that it would be up to the Landlords to decide whether or not they wished to enter into a new tenancy agreement with her.

Conclusion

The Tenants' Application is dismissed.

I hereby grant the Landlords an Order of Possession **effective 2 days after service of the Order upon the Tenant PC**. This Order may be filed in the Supreme Court of British Columbia and 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 22, 2016

Residential Tenancy Branch

