



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Western Interior Contracting Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

O, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession based on a mutual agreement to end tenancy and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession based on a mutual agreement to end the tenancy?

Background and Evidence

The tenant agreed that the mutual agreement to end a tenancy form supplied by the landlord as evidence was correct. The tenant will vacate the rental unit on February 29, 2016 and has agreed to vacate by 9:00 a.m. The agreement was signed by the parties on November 3, 2015.

The tenant asked that the time of move-out be altered to 1:00 p.m.; the landlord does not wish to change the agreed-upon vacancy time.

The tenant said he should not have to pay the filing fee as he has not indicated he would not be vacating.

The landlord confirmed that the tenant has not indicated he would refuse to vacate.

Analysis

Section 55 (2) of the Act provides:

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

- (a) a notice to end the tenancy has been given by the tenant;*
- (b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;*
- (c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term;*
- (d) the landlord and tenant have agreed in writing that the tenancy is ended.***

(Emphasis added)

Therefore, based on the signed mutual agreement ending the tenancy the landlord has been granted an Order of possession that is effective at 9:00 a.m. on February 29, 2016. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I decline filing fee costs to the landlord as there was no evidence before me that the tenant had indicated he would not vacate, as agreed.

Conclusion

The landlord is entitled to an Order of possession.

Filing fees are declined.

This decision is final and binding on the parties, unless and 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: February 16, 2016

Residential Tenancy Branch

