



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O F F

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Landlord on March 17, 2016. The Landlord filed seeking an Order of Possession effective April 1, 2016, the end of a fixed term tenancy agreement which required the Tenants to vacate the property; and to recover the cost of the filing fee.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance on behalf of the Tenants. The Landlord provided affirmed testimony that the Tenants were served notice of this application and this hearing in person on April 1, 2016.

Based on the undisputed evidence of the Landlord, I find the Tenants were each sufficiently served notice of this hearing in accordance with Section 89(1) of the *Act*. The hearing continued to hear the undisputed evidence of the Landlord in absence of the Tenants.

Issue(s) to be Decided

Has the Landlord proven entitlement to an Order of Possession?

Background and Evidence

The Landlord submitted documentary evidence that the Tenants entered into a fixed term tenancy agreement that began on September 15, 2015 and was scheduled to end on April 1, 2016. Each party initialed the tenancy agreement acknowledging that at the end of the fixed term "the tenancy ends and the tenant must move out of the residential unit".

The Landlord testified when she reminded the Tenants they had to move out the Tenants told her they could not find a place to move to and requested they be allowed to stay one additional month. The Landlord stated she entered into a verbal agreement to allow the Tenants to rent for one additional month.

Analysis

The *Residential Tenancy Act* defines a “**tenancy agreement**” as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit.

Section 91 of the Act stipulates that except as modified or varied under this Act, the common law respecting landlords and tenants applies in British Columbia. Common law has established that oral contracts and/or agreements are enforceable.

In this case the Landlord filed an application seeking an Order of Possession based on the written fixed term tenancy agreement which came to an end as of April 1, 2016. However, the Landlord submitted affirmed testimony she entered into a subsequent verbal tenancy agreement with the Tenants allowing the Tenants to rent the rental unit after the written fixed term tenancy agreement ended.

Based on the above, I find the Landlord has entered into a subsequent verbal tenancy agreement and the terms of that verbal tenancy agreement are recognized and enforceable under the *Residential Tenancy Act*. Therefore, I find the Landlord is not entitled to an Order of Possession based on the written tenancy agreement. Accordingly, the Landlord’s application is dismissed, in its entirety, without leave to reapply.

Conclusion

The Landlord was found to have entered into a subsequent verbal tenancy agreement with the Tenants and her application was dismissed, without leave to reapply.

This decision is final, legally binding, 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: April 29, 2016

Residential Tenancy Branch