



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPB, MNR, MNDC, FF

Introduction

This hearing convened as a result of a Landlords' Application for Dispute Resolution filed on June 10, 2016 wherein they sought an Order of Possession and Monetary relief from the Tenant.

Only the Landlords' agent, R.C., appeared at the hearing. Introduced in evidence was a letter from the Landlord B.C. confirming R.C. would act as their agent. R.C. gave affirmed testimony and was provided the opportunity to present the Landlords' evidence orally and in written and documentary form, and make submissions to me.

As the Tenant failed to attend the hearing service of the Landlords' Application for Dispute Resolution and Notice of Hearing was considered. R.C. provided in evidence the tracking number for the registered mail package which he testified was sent to the Tenant on June 15, 2016. He also confirmed that he spoke to the Tenant the week before the hearing and she confirmed she was aware of the hearing. Based on the testimony of R.C. I find the Tenant was duly served with the Landlords' Application materials and Notice of Hearing and I proceeded with the hearing in her absence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Are the Landlords entitled to an Order of Possession?
2. Are the Landlords entitled to monetary compensation from the Tenant?
3. Should the Landlords recover the filing fee?

Background and Evidence

Introduced in evidence was a copy of the tenancy agreement. R.C. testified that this three month fixed term tenancy began February 1, 2016. Monthly rent was payable in the amount of \$600.00 payable on the first of the month and the Tenant was also responsible for paying the electrical utility and her able.

On April 30, 2016 the Landlords gave the Tenant notice that they would not be extending her lease beyond the expiration of the fixed term on May 31, 2016. Introduced in evidence was a copy of the letter sent to the Tenant on this date. R.C. testified that this letter was hand delivered to the Tenant.

R.C. testified that despite being informed the tenancy was ending the Tenant failed to moved out by May 31, 2016 and failed to pay occupational rent.

The Landlords seek an Order of Possession based on the expiration of the fixed term tenancy.

The Landlords also seek a Monetary Order in the amount of \$1,400.00 for loss of rent for the months June and July 2016 as the Tenant over-held her tenancy, as well as recovery of the \$100.00 filing fee.

Analysis

The Landlords seek an Order of Possession based on the expiration of the fixed term tenancy. Section 44 of the *Residential Tenancy Act* provides for the ending of a tenancy in such a situations and the relevant portions read as follows:

How a tenancy ends

44 (1) A tenancy ends only if one or more of the following applies:

...

(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;

Based on my review of the residential tenancy agreement, **I find the Landlords are entitled to an Order of Possession effective two (2) days after service.** The Landlords must serve the Order of Possession on the Tenant and may file and enforce the Order in the B.C. Supreme Court as an Order of that Court.

I accept the Landlords' agents' undisputed testimony that the Tenant did not move from the rental on May 31, 2016 as required and thereby over-held her tenancy into June 2016 and July 2016. I further accept his testimony that she failed to pay occupational rent and prevented the Landlords from renting to another. Accordingly, I grant their request for monetary compensation in the amount of \$1,200.00 representing the loss of rent for those two months. I also grant them recovery of the \$100.00 filing fee for a total of **\$1,300.00**. The Landlords are granted a Monetary Order in this amount and must serve the Order on the Tenants. If necessary, this Order can be filed and enforced in the B.C. Provincial Court (Small Claims Division).

Conclusion

The Landlords are granted an Order of Possession and a Monetary Order in the amount of \$1,300.00.

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: July 19, 2016

Residential Tenancy Branch