



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord, the tenants and an advocate for the tenants participated in the teleconference hearing.

At the outset of the hearing, the tenants confirmed that they had received the landlord's application and evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

I determined that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the landlord's application in the conclusion of my decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on July 1, 2015 as a fixed term tenancy to end on January 31, 2016. On January 3, 2016 the landlord and the female tenant signed a second agreement, for a fixed term from February 1, 2016 to April 30, 2016. On April 15, 2016 the parties entered into a third tenancy agreement, for a fixed term from May 1, 2016 to May 31, 2016. None of these three agreements contains a clause indicating whether the tenancy would revert to month-to-month or the tenant would be required to vacate at the end of the fixed term. These agreements all identify the female tenant as the sole tenant, and are only signed by the female tenant and the landlord.

In May 2016 the landlord and the male tenant entered into a fourth agreement for a fixed term from June 1, 2016 to June 30, 2016. This agreement contains a clause that clearly indicates that the tenant must vacate the unit by June 30, 2016. This agreement identifies the female tenant as the sole tenant, but it is signed by the male tenant. On May 22, 2016 the male tenant also gave the landlord a written guarantee that he would assist the female tenant to move out by June 30, 2016.

The tenant did not vacate the rental unit by June 30, 2016, and on July 8, 2016 the landlord applied for an order of possession pursuant to the fourth tenancy agreement and the male tenant's guarantee that the tenancy would end on June 30, 2016.

In support of their application, the landlord submitted copies of text messages between the landlord and the male tenant, demonstrating that as early as September 2015 the landlord would contact the male tenant regarding rent or utilities and the male tenant would forward the money to the female tenant to pay the landlord.

The tenants' advocate submitted that the landlord should not receive an order of possession based on the agreement and guarantee signed by the male tenant, as the female tenant is the only tenant identified on the tenancy agreements, and she was not present when the male tenant signed the fourth agreement and the guarantee. In the hearing the male tenant first identified himself as the female tenant's roommate but explained that he is a truck driver and he spends 90 percent of his time on the road. Later in the hearing the male tenant stated that he rents from the female tenant.

Analysis

I have reviewed all evidence and I find that the landlord is entitled to an order of possession. I find it was clear to all parties that the male tenant was the second tenant in the rental unit. The landlord and the male tenant regularly communicated regarding rent and utilities payments. Therefore, the male tenant had the authority to sign the fourth tenancy agreement and the guarantee, both indicating that the tenancy would end and the tenant would vacate on June 30, 2016. Accordingly, I grant the landlord an order of possession.

As their application for an order of possession was successful, the landlord is entitled to recovery of the \$100.00 filing fee.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord is entitled to \$100.00. I order that the landlord retain this amount from the security deposit in full satisfaction of this amount.

The remainder of the landlord's monetary claim is dismissed with leave to reapply.

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: August 19, 2016

Residential Tenancy Branch