



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, O, OPB

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession based on the tenancy agreement that provided that the tenants must leave at the end of the fixed term.
- b. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenants on July 23, 2016. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

In July 2013 the parties entered into a one year fixed term tenancy agreement that provided that the tenancy would start on August 1, 2013 and the rent was \$1500 per month. The tenants paid a security deposit of \$750 at the start of the tenancy. The parties have entered into two subsequent one year fixed term tenancy agreement. The latest agreement provided that the tenancy would start on August 1, 2015, end on July

31, 2016 and the tenants must move out on July 31, 2016. The rent was \$1640 per month payable in advance on the first day of the month.

The landlord seeks to end the tenancy on the basis that the fixed term tenancy has come to an end and the parties have agreed that the tenants must move out. The landlord also testified as to late payments by the tenant, a tension in the tenancy relationship and that the landlords want to regain possession. The landlord testified the rent for September has not been paid.

The tenant testified as follows:

- The real reason behind this dispute is that the landlord wants to raise the rent to \$2400. The tenant testified he has a series of e-mails between the parties where the landlord was demanding that the tenants pay that sum.
- The landlord failed to give him receipts. The reason the rent has been late is that the landlord has demanded payment in cash.
- The landlord represented he could insure both parties and fraudulently took \$300 of the tenants money and applied it to obtain insurance. However, the tenants were not named on the policy.

Analysis - Order of Possession:

Policy Guideline #30 includes the following:

Orders of Possession and Fixed Term Tenancies

In addition to the procedures under the Legislation for terminating a tenancy for cause or for non-payment of rent, a landlord may apply for an Order of Possession in respect of a fixed term tenancy when any of the following occur:

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- 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;
- the landlord and tenant enter into a written agreement specifying that the tenancy agreement shall end on a specified date.

There was a dispute between the parties as to whether the tenant signed the tenancy agreement and initialed the fixed term provisions. After questioning, the tenant acknowledged he signed the tenancy agreement but stated he was not familiar with the initials in the fixed term provisions. I do not accept this testimony. I determined that the tenant did sign the tenancy agreement and it was his initials in the fixed term area that indicated the Tenants would have to vacate the rental unit at the end of the fixed term..

Where the parties have agreed that the tenants must vacate at the end of the fixed term it is not appropriate for an arbitrator to consider the motive of the landlord and why the landlord wants to regain possession.

As a result I determined that the landlord has a legal right to regain possession of the rental unit. Accordingly, I granted an Order for Possession. In the circumstances I determined it was appropriate to set the effective date of the Order for Possession for 7 days after service. As the landlord has been successful with this application I ordered that the Tenants pay to the Landlords the cost of the filing fee in the sum of \$100 such sum may be deducted from the security deposit.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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: September 06, 2016

Residential Tenancy Branch