



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AFFORDABLE HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPB FF

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "*Act*") to obtain an order of possession due to the tenants breaching a fixed term tenancy agreement by failing to vacate the rental unit on the date agreed to in the fixed term tenancy agreement, and to recover the cost of the filing fee.

Two agents for the landlord (the "agents") attended the teleconference hearing. During the hearing the agents were given the opportunity to provide their evidence orally. A summary of their testimony is provided below and includes only that which is relevant to the hearing.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), the Application for Dispute Resolution (the "Application") and documentary evidence were considered. Agent M.H. provided affirmed testimony that he served the Notice of Hearing, Application and documentary evidence were served on both tenants via personal service at approximately 3:00 p.m. on October 6, 2016 at the rental unit and that both tenants accepted service. Agent R.S. stated that she witnessed the personal service from across the courtyard on October 6, 2016. Based on the above, I accept that the tenants were sufficiently served on October 6, 2016 as required by the *Act*.

Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

Background and Evidence

A copy of the fixed term tenancy agreement was submitted in evidence. The tenancy began on May 1, 2016 and was scheduled to end on September 30, 2016. Monthly rent

of \$1,105.00 was due on the first day of each month. The tenants paid a security deposit of \$552.50 at the start of the tenancy which the landlord continues to hold.

Both parties initialed next to the term of the fixed term tenancy agreement which reads that effective September 30, 2016:

“At the end of this fixed length of time: the tenancy ends and the tenant must move out of the residential unit

If you choose this option, both the landlord and tenant must initial in the boxes to the right.”

[reproduced as written]

The agents testified that they are seeking an order of possession and the recovery of the cost of the filing fee. The agents testified that the tenants have not paid any money towards use and occupancy of the rental unit for October 2016.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the agents provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession – I find the tenancy agreement clearly indicates that the fixed term tenancy required vacant possession of the rental unit as of September 30, 2016. I find the tenants breached the tenancy agreement by failing to vacate the rental unit and continue to occupy the rental unit without paying any money for use and occupancy for October 2016. The landlord will not regain possession of the rental unit until an order of possession has been granted and served as the tenants are refusing to vacate the rental unit. Therefore, pursuant to section 55 of the *Act*, I grant the landlord an order of possession **effective two (2) days** after service on the tenants. The tenancy ended on September 30, 2016.

As the landlord's application was successful, and pursuant to section 72 of the *Act* I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100.00**. I **authorize** the landlord to retain \$100.00 from the tenants' \$552.50 security deposit in full satisfaction of the recovery of the cost of the filing fee, which I find leaves a security deposit balance of \$452.50.

Conclusion

The landlord's application is successful.

The tenancy ended on September 30, 2016 at 1:00 p.m.

The landlord is granted order of possession effective two (2) days after service on the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

I authorize the landlords to retain \$100.00 from the tenants' \$552.50 security deposit in full satisfaction of the recovery of the cost of the filing fee. I find the tenants' security deposit balance is now \$452.50.

This decision is final and binding on the parties, unless otherwise provided under the Act, 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: October 21, 2016

Residential Tenancy Branch

