



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPM

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for cause and as a result of mutual agreement to end the tenancy pursuant to section 55.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the notice of hearing package and the submitted documentary evidence was served to the tenant via Canada Post Registered Mail on September 29, 2016. The landlord also stated that the package was returned by Canada Post as "unclaimed" after notice(s) were left for the tenant to claim the package. The landlord confirmed that the package was sent to the tenant at the dispute address where she currently still occupies the rental site. The landlord also provided in his direct testimony the Canada Post Customer Receipt Tracking number as confirmation of service. I accept the undisputed affirmed evidence of the landlord and find that the tenant was properly served with the notice of hearing package and the submitted documentary evidence as per sections 88 and 89 of the Act. The tenant is deemed served 5 days later as per section 90 of the Act.

It was clarified with the landlord that an order of possession is being sought based upon the mutual agreement to end tenancy which was signed by both parties to end on August 31, 2016 in exchange for withdrawing the landlord's 1 Month Notice dated June 3, 2016.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on December 1, 2007 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated November 29, 2007. The monthly economic rent was \$726.00 payable on the 1st day of each month. The tenant's rent contribution is based upon her rent subsidy deducted from the economic rent. A security deposit of \$362.50 was paid.

The landlord provided undisputed affirmed evidence that the tenant was served with a 1 Month Notice dated June 3, 2016 and displays an effective end of tenancy date of July 31, 2016. The 1 Month Notice sets out 1 reason for cause as:

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord stated that after some discussions the landlord and the tenant entered into a mutual agreement to end the tenancy on August 31, 2016 in exchange for cancelling the 1 Month Notice dated June 3, 2016.

The landlord has submitted copies of the 1 Month Notice and the signed mutual agreement to end tenancy.

Analysis

Pursuant to Section 55 (2) (d) a landlord may request an order of possession to end the tenancy when both the landlord and the tenant have agreed in writing that the tenancy is ended.

In this case, I accept the undisputed affirmed evidence that in exchange for the landlord cancelling the 1 Month Notice dated June 3, 2016 a mutual agreement was entered into by the landlord and the tenant to end the tenancy on August 31, 2016. The landlord has provided a copy of the signed mutual agreement to end tenancy. The landlord has

provided sufficient evidence to satisfy me that there is a mutual agreement to end the tenancy for August 31, 2016. The landlord is entitled to a 2-Day Order of Possession.

Conclusion

The landlord is granted an order of possession.

This order must be served upon the tenant. 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.

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: November 18, 2016

Residential Tenancy Branch