



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on November 4, 2016 (the "Application"). The Landlord applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- An order of possession based on the end of a fixed-term tenancy agreement; and
- An order granting recovery of the filing fee.

The Landlord was represented at the hearing by M.S., who provided a solemn affirmation. The tenant did not attend the hearing.

On behalf of the Landlord, M.S. testified the Tenant was served with the Landlord's Application package by registered mail on November 4, 2016. In support, the Landlord submitted a Canada Post registered mail receipt bearing that date. Pursuant to sections 89 and 90 of the *Act*, documents served in this manner are deemed to be received five days later. I find the Tenant was duly served with the Landlord's Application package on November 9, 2016.

The Landlord submitted further documentary evidence packages, received at the Residential Tenancy Branch on November 25 and 30, 2016. However, the additional documentary evidence contained in these packages was not relied upon in coming to the Decision that follows.

The Landlord's agent was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

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. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

The Landlord submitted into evidence a copy of the tenancy agreement between the parties. It described fixed-term tenancy commencing November 1, 2015 and ending October 31, 2016. Rent of \$925.00 per month is due on or before the first day of each month. The Tenant paid a security deposit of \$462.50. The tenancy agreement stipulates:

*At the end of this fixed length of time, the tenancy ends and the Tenant **MUST** move out of the residential premises...*

[Reproduced as written.]

The Tenant's initials appear beside this provision.

The Landlord also submitted a letter dated September 23, 2016, into evidence. The letter, mailed to the Tenant and his supportive housing coordinator, confirms the fixed-term tenancy would end on October 31, 2016, and reminded the Tenant of his obligation to vacate the rental unit at that time. However, M.S. testified the Tenant continues to occupy the rental unit.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on the balance of probabilities, I find the following:

The evidence submitted by the Landlord confirms the parties entered into a fixed term tenancy agreement that ended on October 31, 2016. At the end of the tenancy, the Tenant was required to vacate the rental unit. According to M.S., he has not.

Pursuant to section 55(2)(c) of the *Act*, I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective one (1) day after service on the Tenant.

Having been successful, I find the Landlord is also entitled to recover the \$100.00 filing fee paid to make the Application. I order that this amount may be retained from the security deposit paid by the Tenant.

Conclusion

I grant the Landlord an order of possession, which will be effective one (1) day after service on the Tenant. This order may be filed in and enforced as an order of the Supreme Court of British Columbia.

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: December 20, 2016

Residential Tenancy Branch