



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COMMUNITY BUILDERS BENEVOLENCE GROUP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O

Introduction

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

- other remedies, identified as an order of possession based on a fixed term tenancy agreement, pursuant to section 55.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord's two agents, "landlord JN" and "landlord SS" (collectively "landlord") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. Landlord JN stated that she is the tenant coordinator and landlord SS stated that she is the executive assistant, both employed by the "landlord company" named in this application. Both agents confirmed that they had authority to speak on behalf of the landlord company at this hearing.

Landlord SS testified that the tenant was served with the landlord's application for dispute resolution hearing package on February 8, 2017, by way of registered mail to the rental unit where the tenant is still residing. The landlord provided a Canada Post receipt and tracking number as proof of service with this application. Landlord SS confirmed that the application was returned to sender as unclaimed. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on February 13, 2017, five days after its registered mailing.

Issue to be Decided

Is the landlord entitled to an order of possession based on a fixed term tenancy agreement?

Background and Evidence

Landlord SS testified regarding the following facts. This tenancy began on August 1, 2016 and the tenant continues to reside in the rental unit. Monthly rent in the amount of \$475.00 is payable on the first day of each month. A security deposit of \$237.50 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties and a copy was provided for this hearing.

The written tenancy agreement, on a standard RTB form, indicates that this tenancy is for a fixed term of six months ending on January 1, 2017, after which the tenancy ends and the tenant must move out of the residential unit. Both the tenant and landlord initialled the area beside that provision. Landlord SS said that the fixed term end date was stated incorrectly, as it should have read as February 1, 2017, the end of the six month period, not January 1, 2017. She stated that the tenant was well aware that the tenancy was only for six months, that she spoke with him about it verbally and that two letters, dated January 16 and 23, 2017, were issued to the tenant indicating that this tenancy ends on February 1, 2017 and it would not be renewed. The landlord provided copies of these two letters. The landlord also provided a rent receipt issued to the tenant for February 2017 rent, indicating that the rent of \$475.00 was being accepted for "use and occupancy only."

Analysis

Section 44(1)(b) states the following:

- (1) A tenancy ends only if one or more of the following applies:*
...*(b) 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 written tenancy agreement in this situation requires the tenant to vacate the rental unit by the end of the fixed term period. Both parties signed the entire written tenancy agreement and specifically agreed to this fixed term provision by initialling beside it. Although the date stated in the tenancy agreement was incorrect at January 1, 2017, the landlord made it clear verbally as well as in two written letters, dated January 16, 2017 and January 23, 2017, that the tenancy was ending on February 1, 2017, six months after the start date as indicated in the tenancy agreement, and that the tenancy agreement would not be renewed with the tenant.

Accordingly, I find that as per the terms of this fixed term tenancy agreement, this tenancy ended effective on February 1, 2017 and the tenant was required to vacate the rental unit by that date. The landlord's application is allowed. As this date has now

passed, I grant the landlord an order of possession, pursuant to section 55 of the *Act*, effective two (2) days after service on the tenant.

Conclusion

The landlord's application is allowed. This tenancy ended effective on February 1, 2017.

I grant an Order of Possession to the landlord **effective two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed 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: March 01, 2017

Residential Tenancy Branch