



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, FF

Introduction

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

- an Order of Possession pursuant to section 55; and
- authorization to recover the filing fee for this application pursuant to section 72.

The tenant did not attend the hearing which lasted approximately 10 minutes. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord FT confirmed he spoke for both landlords (the "landlord").

The landlord testified that the landlords' application for dispute resolution dated February 28, 2017 was served on the tenant with all evidence by registered mail on the same date. The landlord provided a Canada Post tracking number as evidence of service. I find that the landlords' application and evidence were served on the tenant in accordance with sections 88, 89 and 90 of the *Act* on March 2, 2017, five days after mailing.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession?

Are the landlords entitled to recovery of the filing fee of this application from the tenant?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began in August, 2013. The current monthly rent is \$1,000.00 payable on the first of the month. A security deposit of \$500.00 was collected from the tenant at the start of this tenancy and is still held by the landlord. The tenant continues to reside in the rental unit at the time of the hearing.

The parties entered a Mutual Agreement to End Tenancy on December 10, 2016 (the "Mutual Agreement") wherein the tenant agreed to vacate the rental unit by January 31, 2017. A copy of the Mutual Agreement was submitted into written evidence by the landlord.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to vacate the rental unit on January 31, 2017. I accept the landlord's evidence that the tenant failed to vacate the rental unit pursuant to the Mutual Agreement. I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*. As the date of the end of tenancy has passed I issue a 2 day Order of Possession.

As the landlords were successful in this application, I find that the landlords are entitled to recover the \$100.00 filing fee paid for this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlords to retain \$100.00 of the tenant's \$500.00 security deposit in satisfaction of the monetary award issued in the landlords' favour.

Conclusion

I grant an Order of Possession to the landlords effective **2 days after service on the tenant(s)**. Should the tenant(s) or any occupant 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.

I order the landlords to retain \$100.00 from the tenant's security deposit to recover the landlords' filing fee for this application. I order that the retained value of the security deposit is reduced from \$500.00 to \$400.00.

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 27, 2017

Residential Tenancy Branch