



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, FF

Introduction

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

- other relief in the form of an Order of Possession pursuant to section 55; and
- authorization to recover the filing fee of this application from the tenants.

The tenants did not attend this 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 testified that the landlord's application for dispute resolution dated May 1, 2017 was sent to each of the co-tenants by registered mail on that same date. The landlord provided two Canada Post tracking numbers as evidence of service. In accordance with sections 88, 89 and 90 of the Act, I find that the tenants were deemed served with the landlord's application and evidentiary materials on May 6, 2017, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee of this application from the tenants?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This fixed term tenancy began in April, 2016. The tenancy agreement provides that the tenancy will end on May 1, 2017 at which time the tenants must move out of the rental unit. This clause is initialed by both the landlord and the tenants. The monthly rent is \$1,900.00

payable on the first of each month. A security deposit of \$950.00 and a pet damage deposit of \$950.00 were paid by the tenants at the start of the tenancy and is still held by the landlords.

The landlord testified that the fixed term tenancy end date has passed but the tenants have not vacated the rental unit. The landlord said that the tenants have not paid rent for May or June, 2017.

Analysis

Section 55(c) of the Act provides that a landlord may request an order of possession of a rental unit if the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term. I find that the tenancy agreement signed by the parties provides that the tenants, provides that the tenancy ends on May 1, 2017. The tenants have initialed the clause of the tenancy agreement stating that they must vacate the rental unit at the end of the fixed term. Accordingly, I find that the landlord is entitled to an Order of Possession of the rental unit. As the end of the fixed term has already passed, I issue an Order of Possession effective 2 days after service.

As the landlord has been successful in her application she is entitled to recover the \$100.00 filing fee for this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 from the tenant's \$950.00 security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenants 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.

The tenant's security deposit is reduced to \$850.00.

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: June 6, 2017

Residential Tenancy Branch