



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET and FF

Introduction

On April 24, 2017 the Landlords filed an Application for Dispute Resolution, in which the Landlords applied to end the tenancy early, for an Order of Possession, and to recover the fee for filing this Application for Dispute Resolution.

A hearing was convened on May 11, 2017 to consider the merits of the Landlords' Application for Dispute Resolution. The Landlords were represented at the hearing on May 11, 2017 but the Tenants were not. In a decision dated May 12, 2017 a Residential Tenancy Branch Arbitrator granted the Landlords an Order of Possession and a monetary Order for \$100.00.

On May 17, 2017 the Tenants filed an Application for Review Consideration.

On May 31, 2017 a Residential Tenancy Branch Arbitrator suspended the decision of May 12, 2017 and ordered that a new hearing be convened.

This hearing was convened on June 29, 2017 to consider the merits of the Landlords' original Application for Dispute Resolution.

The female Landlord stated that on April 25, 2017 the Application for Dispute Resolution was served to the Tenants, although the Landlords could not recall the method of service. The female Tenant stated that this document was never received. The female Tenant stated that she has read the decision dated May 12, 2017 and is aware that the Landlords had applied to end the tenancy early, for an Order of Possession, and to recover the fee for filing this Application for Dispute Resolution. As the Tenants are aware of the issues in dispute, I find it reasonable to proceed with this hearing without further delay.

The female Landlord stated that on April 25, 2017 evidence submitted with the original Application for Dispute Resolution was served to the Tenants, although they could not recall the method of service. The female Tenant stated that this evidence was never received. As the Tenants do not acknowledge receipt of the evidence and the

Landlords could not recall how the evidence was served, I find that the Landlords have submitted insufficient evidence to establish that it was properly served to the Tenants and I refuse to accept it as evidence for these proceedings.

The female Tenant stated that on June 11, 2017 the Application for Review Consideration was personally served to the Landlord. The female Landlord acknowledged receipt of these documents.

The female Tenant stated that on June 15, 2017 the 21 pages of evidence and the USB device submitted with the Application for Review Consideration was served to the Landlords by a bailiff. The female Landlord acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

On June 26, 2017 the Landlords submitted 48 pages of evidence and a USB device to the Residential Tenancy Branch. The female Landlord stated that this evidence was posted on the Tenants' door on June 26, 2017. The female Tenant stated that this evidence was received on June 26, 2017 and that the Tenants had sufficient time to respond to the evidence. I therefore accepted the evidence as evidence for these proceedings.

The female Tenant stated that on June 28, 2017 the Tenants submitted 17 pages of evidence to the Residential Tenancy Branch. The female Tenant stated that on June 28, 2017 this evidence was served to the Landlords by a bailiff. The female Landlord acknowledged receipt of this evidence, which she contends is not relevant to the issues in dispute at these proceedings. The parties were advised that I was not in possession of this evidence; that we would proceed with the hearing in the absence of the evidence; and that I would adjourn the hearing if it became apparent I needed to view the Tenants' evidence. This hearing concluded without the need for me to consider an adjournment.

The parties were advised that they would be given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were also advised of their legal obligation to speak the truth during these proceedings.

Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession on the basis that the tenancy is ending early, pursuant to section 56(1) of the *Residential Tenancy Act (Act)*?

Background and Evidence

Prior to discussing the merits of the Landlords' application to end the tenancy early, the Landlords and the Tenants mutually agreed to settle all issues in dispute at these proceedings under the following terms:

- the tenancy will end, by mutual consent, at 1:00 p.m. on June 30, 2017;
- the Landlords will apply the Tenants' security deposit to unpaid rent for June of 2017;
- the Tenants will leave the rental unit in clean condition;
- the Tenants will leave the keys to the rental unit and the garage remote control in the unit at the end of the tenancy; and
- both parties have the right to file another Application for Dispute Resolution seeking financial compensation.

All parties declared that they understood this settlement agreement was final and binding, and that they voluntarily entered into the agreement.

Analysis

The issues in dispute at these proceedings have been settled in accordance with the aforementioned terms.

Conclusion

On the basis of the aforementioned settlement agreement, I grant the Landlords an Order of Possession that is effective on June 30, 2017. In the event the rental unit is not vacated by June 30, 2017, this Order may be served on the Tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

This decision and Order replaces the decision and Orders of May 12, 2017.

This settlement agreement is recorded on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: June 29, 2017

Residential Tenancy Branch