



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FAMARK DEVELOPMENT CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPM

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on April 3, 2018. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a mutual agreement to end tenancy

The Landlord's Agents, R.T. and S.A. (the "Landlord") both attended the hearing and provided testimony. The Tenant did not attend the hearing.

The Landlord testified that they sent the Notice of Hearing along with supporting documentary evidence to the Tenant on February 3, 2018, by registered mail. I find the Tenant received this package on February 8, 2018, the fifth day after its registered mailing, pursuant to Section 90 of the *Act*.

The Landlord was provided the 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

- Is the Landlord entitled to an order of possession based on a mutual agreement to end tenancy?

Background and Evidence

The Landlord testified that on January 25, 2018, they signed a mutual agreement to end the tenancy, effective March 31, 2018.

The Landlord provided a copy of a mutual agreement to end tenancy (the “agreement”), dated January 25, 2018. The agreement specifies that the Tenant agreed to vacate the rental unit by 1:00 pm on March 31, 2018. Both the Landlord and the Tenant signed this written agreement.

The Landlord testified that the Tenant did not move out as specified by the agreement and now they are seeking an order of possession.

Analysis

Section 44 of the Act allows for a tenancy to end by mutual agreement of the parties to the tenancy as long as the agreement is in writing.

Based on the testimony and documentary evidence, and on a balance of probabilities, I find there is sufficient evidence to demonstrate that the parties entered into a mutual agreement to end the tenancy, effective March 31, 2018. I accept the Landlord’s undisputed submissions that the tenant continues to occupy the rental unit, as of the date of this hearing.

I find the Landlord is entitled to an order of possession based on the mutual agreement to end tenancy. This order of possession will be effective two (2) days after it is served on the Tenant.

Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: April 5, 2018

Residential Tenancy Branch