



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM

Introduction

On April 25, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) requesting an Order of Possession for a Mutual Agreement to End the Tenancy. The matter was set for a participatory hearing via conference call.

An Agent for the Landlord (the “Agent”) and Tenant attended the hearing and were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. No issues were raised by either party regarding the service of documents or evidence.

I have reviewed all the affirmed 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.

Issue to be Decided

Should the Landlord be granted an Order of Possession?

Background and Evidence

Both the Agent and the Tenant agreed that the one year fixed-term tenancy began on November 1, 2016 and then continued as a month-to-month tenancy with a monthly rent of \$430.00 payable on the first of each month.

The Landlord referred to a Mutual Agreement to End a Tenancy (the “Agreement”), that she submitted as evidence. The Landlord testified that the Landlord and the Tenant met on January 30, 2018 and both agreed that the Tenant would move out of the rental unit on February 14, 2018 at 1:00 p.m. Both the Landlord and the Tenant signed the Agreement.

The Landlord stated that there had been many issues that the Landlord had with the Tenant and that they had struggled to find solutions. As part of the Agreement to end the tenancy, the Landlord stated that they would assist the Tenant to find a new rental unit and provide support as required.

The Tenant testified that she agreed with the details regarding the Agreement; however, she alleged that she signed the Agreement under duress, as someone had told her that if she didn't sign that she would be evicted within 24 hours.

The Landlord responded by confirming that her organization is in the business of housing people and would not threaten to evict someone within 24 hours. Further, the Landlord has been providing the Tenant support in finding new housing; however, the Tenant has been resistant to accept assistance. The Tenant failed to end the tenancy as agreed in the Agreement and has been paying Use and Occupancy rent since February 14, 2018.

The Landlord stated that she had not applied for an Order of Possession until now because her organization was attempting to support the Tenant and, there was another Application that the Tenant had made to the Residential Tenancy Branch about canceling a Notice to End Tenancy and a subsequent hearing in April 2018. The Landlord is reluctant to pursue the Order of Possession, but feels that they have been patient with the Tenant and believes the tenancy needs to end. The Landlord also said that they were willing to negotiate a mutually agreeable end date for the tenancy and that the Landlord would continue to give the Tenant support while looking for another rental unit.

The Tenant testified that she would prefer to stay in her current rental unit and understands that the Landlord has been patient and that she has been in the rental unit for three months past the agreed vacancy date. The Tenant agreed that it would be helpful if an Order of Possession was not issued until the end of June 2018 and stated that she would accept any assistance from the Landlord.

Analysis

Section 44(1)(c) of the Act authorizes the end of a tenancy if the Landlord and the Tenant agree in writing to end the tenancy. The Landlord has provided affirmed testimony that the Agreement was signed by the Tenant and that there was no duress involved. The Tenant claims that she was forced to sign Agreement. When two parties

in a dispute provide equally plausible accounts of an event, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. In the case before me, I find the Tenant has failed to provide sufficient evidence of pressure or duress by the Landlord during the signing of the Agreement. I accept the Landlord's testimony and find that the Agreement was signed consensually and that the Agreement, with the agreed to vacancy date of February 14, 2018, is valid.

Section 55(2)(d) of the Act permits a Landlord to request an Order of Possession of a rental unit in the circumstance where the Landlord and the Tenant have agreed in writing that the tenancy is ended.

As the Tenant is still occupying the rental unit beyond the end of her tenancy, I grant the Landlord an Order of Possession for the rental unit. I am cognizant of the Landlord's wishes to offer continued support to the Tenant as she seeks a new rental unit; therefore, as the Landlord agreed to extend the effective vacancy date, the tenancy will end on June 30, 2018 at 1:00 p.m.

Conclusion

I am granting the Landlord an Order of Possession to be effective June 30, 2018 at 1:00 p.m. This Order must be served on the Tenant as soon as possible. Should the Tenant 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: May 24, 2018

Residential Tenancy Branch