



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPL

Introduction

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

- an order of possession for landlords' use of property pursuant to section 55.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the notice of hearing package and the submitted documentary evidence of the other party. As such, I find that both parties have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for landlords' use?

Background, Evidence and Analysis

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that this tenancy originally began on November 1, 2005 on a fixed term tenancy for 1 year which later became a month-to-month basis. The monthly rent was \$1,000.00 payable on the 1st day of each month. A security deposit of \$500.00 was paid. No pet deposit was required. Subsequently a new tenancy agreement was entered into on November 1, 2013 on a fixed term tenancy for 1 year and then thereafter on a month-to-month basis. The current monthly rent is \$1,200.00 payable on the 1st day of each month and the \$500.00 security deposit was carried over.

The landlords claim that a 2 Month Notice to End Tenancy issued for Landlord's use of Property (the 2 Month Notice) dated February 28, 2018 was served to the tenants via email (on March 1, 2018) and then later by text. The 2 Month Notice dated February 28, 2018 displays an effective end of tenancy date of April 30, 2018 and that one reason selected was:

The landlord has all necessary permits and approvals required by law to demolish the rental unit, or renovate, or repair the rental unit in a manner that requires the rental unit to be vacant.

The tenants disputed the manner of service of the 2 Month Notice provided by the landlords via email and text. The tenants claim that a 2 Month Notice was not received by email and that a text message was received with the 2 Month Notice, but that it was unreadable.

The landlords argued that the email was received and have referred to an email response from the same address received on the same date as confirmation.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to mutually end the tenancy on June 30, 2018, by which time the tenants will have vacated the rental unit.

The landlords agreed to withdraw the 2 Month Notice dated February 28, 2018.

The landlords agreed to pay to the tenants \$1,200.00 (equal to 1 month of rent) for as compensation as if complying with a 2 Month Notice, which both parties agreed constituted a final and binding resolution of all monetary issues under for dispute resolution.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from this application for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In order to implement the above settlement reached between the parties, I issue an Order of Possession to be used by the landlord if the tenants fail to vacate the rental premises in accordance with their agreement by 1:00 pm on June 30, 2018. The landlords are provided with this order in the above terms and the tenant(s) must be served with this Order in the event that the tenants do not vacate the premises by the time and date set out in their agreement. Should the tenants fail to comply with this Order, the Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary order in the tenants favour in the amount of \$1,200.00. I deliver this Order to the tenants in support of the above agreement for use in the event that the landlords do not abide by the terms

of the above settlement. The landlords are provided with this Order in the above terms and the landlords must be served with a copy of this Order as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlords fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

As the matter of the security deposit for this tenancy was raised by the parties at this hearing, the parties are bound by the provisions of the Act with respect to the return of any security deposit or pet damage deposit that is held by the landlord(s).

Conclusion

The landlords are granted an order of possession for June 30, 2018.
The tenants are granted a monetary order for \$1,200.00.

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 22, 2018

Residential Tenancy Branch