



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEIGHBOURHOOD HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, OPM

Introduction

On June 4, 2018, the Landlord applied for a dispute resolution proceeding seeking an Order of Possession based on a Mutual Agreement to End Tenancy pursuant to Section 55 of the *Residential Tenancy Act* (the “*Act*”) and seeking an Order of Possession based on a One Month Notice to End Tenancy for Cause pursuant to Section 47 of the *Act*.

J.H. attended the hearing as the Tenant Support Manager on behalf of the Landlord. The Tenant attended the hearing as well. All parties provided a solemn affirmation.

J.H. confirmed that she served the Notice of Hearing package by registered mail to the Tenant, and he acknowledged receipt of this package. As such, and in accordance with sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served with the Notice of Hearing package.

J.H. advised that they served evidence to the Tenant in the Notice of Hearing package and then served additional evidence by hand to the Tenant on July 11, 2018, and the Tenant confirmed receipt of this evidence. Based on the Rules of Procedure with respect to service of evidence, I am satisfied that the Tenant was served with the Landlord’s evidence and that all evidence before me will be considered.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession based on the effective end of tenancy date agreed upon in the Mutual Agreement to End Tenancy?

- Is the Landlord entitled to an Order of Possession based on the One Month Notice to End Tenancy for Cause?

Background and Evidence

J.H. stated that the current tenancy agreement started on March 1, 2017 and the subsidized rent was established at \$375.00 per month, due on the first day of each month. A security deposit of \$420.00 was paid. The Tenant confirmed these details.

Both J.H. and the Tenant confirmed that they had signed a Mutual Agreement to End Tenancy, near the end of April 2018, with an understanding that the effective end date of the tenancy was for May 31, 2018 at 12:00 PM. A Mutual Agreement to End Tenancy with an effective end date of May 31, 2018 at 12:00 PM was entered into evidence. As the Tenant had not moved out by this date, the Landlord applied for an Order of Possession. The Tenant did not provide a reason for why he did not move out of the premises. J.H. advised that she would be willing to have the Order of Possession effective for August 10, 2018 at 1:00 PM to allow the Tenant more time to vacate the rental unit.

Based on the submissions regarding the Mutual Agreement to End Tenancy, testimony was not taken on the issue of the One Month Notice to End Tenancy for Cause served on March 19, 2018.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

I note that Section 55 of the *Act* allows a landlord to submit an Application for Dispute Resolution seeking an Order of Possession based on a Mutual Agreement to End Tenancy, and I must consider if the landlord is entitled to that Order if the agreement is valid.

As well, Section 44 of the *Act* allows a tenancy to end by mutual consent of both the landlord and the tenant.

In considering this matter, I have reviewed the Mutual Agreement to End Tenancy and both the Landlord and Tenant signed and agreed to the terms stated in that agreement. Based on the undisputed evidence before me, I am satisfied that the Landlord and Tenant agreed to mutually end the tenancy on May 31, 2018 at 12:00 PM. As the Tenant failed to vacate the rental unit by

this time, I find that the Landlord is entitled to an Order of Possession. However, J.H. wished to allow the Tenant to stay until August 10, 2018. As such, I grant the Landlord an Order of Possession that takes effect at **1:00 p.m. on August 10, 2018**. The Landlord will be given a formal Order of Possession which must be served on the Tenant. If the Tenant does not vacate the rental unit by **1:00 p.m. on August 10, 2018**, the Landlord may enforce this Order in the Supreme Court of British Columbia.

With respect to the One Month Notice to End Tenancy for Cause, as the tenancy has already been ended based on the Mutual Agreement to End Tenancy, I make no finding with respect to this notice.

Conclusion

The Landlord is provided with a formal copy of an Order of Possession effective by **1:00 p.m. on August 10, 2018**. Should the Tenant 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.

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: July 27, 2018

Residential Tenancy Branch