



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FFL

Introduction

On September 17, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting an Order of Possession for Landlord’s Use of Property, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The parties attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before 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

Should the Landlord receive an Order of Possession for the rental unit, in accordance with Section 55 of the Act?

Should the Landlord be reimbursed for the filing fee, in accordance with Section 72 of the Act?

Background and Evidence

The Agent and the Tenant agreed on the following terms of the tenancy:

The month-to-month tenancy began on November 1, 2016. The monthly rent is \$1,560.00 and is due on the first of each month. The Landlord collected and currently holds a security deposit of \$750.00.

The Agent testified that she, as the daughter of the Landlord, is intending to move into the rental unit to assist with the care of both her parents and their property. As a result, the Agent for the Landlord personally served a Two-Month Notice to End Tenancy for Landlord's Use of Property, dated July 25, 2018 (the "Notice"), to the Tenant. The Notice contained a move-out date of September 30, 2018 and provided the reason for the end of tenancy as the rental unit will be occupied by the Landlord's close family member.

The Tenant did not move out of the rental unit by September 30, 2018 and is currently still occupying the rental unit. The Landlord is requesting an Order of Possession for November 15, 2018.

The Tenant testified that she did not and is not disputing the issuance or the validity of the Notice. She stated that she has had a difficult time finding an affordable rental unit for her family and service dog.

Analysis

The Tenant has not made application pursuant to Section 49(8) of the Act within fifteen days of receiving the Two Month Notice to End Tenancy for Landlord's Use of Property, dated July 25, 2018. In accordance with Section 49(9) of the Act, the Tenant's failure to take this action within fifteen days led to the end of this tenancy on September 30, 2018 and required them to vacate the rental premises by that date. As that has not occurred, I find that the Landlord is entitled to an Order of Possession for November 15, 2018, as requested by the Landlord. 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 November 15, 2018, the Landlord may enforce this Order in the Supreme Court of British Columbia.

The Landlord's claim has merit and I find that the Landlord should be compensated for the cost of the filing fee.

Conclusion

Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective on November 15, 2018 at 1:00 p.m. This Order should 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.

Pursuant to Section 72 of the Act, I authorize the Landlord to retain \$100.00 from the Tenant's security deposit as compensation for the cost of the filing fee.

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: October 30, 2018

Residential Tenancy Branch