



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for Possession - Section 55;
2. A Monetary Order for compensation - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to compensation or recovery of the filing fee?

Background and Evidence

The tenancy started in 2015. Rent of \$1,920.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$795.00 as a security deposit. On June 22, 2018 the Landlord served the Tenants in person with a two month notice to end tenancy for landlord’s use (the “Notice”). The stated reason for the Notice is that the Landlord or a close family member of the Landlord intends to occupy the unit. The Tenants did not dispute the Notice. The effective date set out on the Notice is September 1, 2018 however the Tenants did not move out on that date. The Tenants

were given the month of August 2018 rent free as the compensation required to be given to the Tenants for the Landlord having ended the tenancy. The Tenants paid rent for October 2018 and the Landlord gave the Tenants a receipt indicating that the monies were accepted for “use and occupancy only”. The Landlord’s application sets out that the monetary claim for compensation is restricted to recovery of the filing fee.

Analysis

Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Given the undisputed evidence that the Tenants received the Notice, did not dispute the Notice and have not moved out of the unit I find that the Landlord is entitled to an order of possession. Given the evidence of rent being paid for October 2018 I grant the Landlord this order of possession to be effective 1:00 p.m. on October 31, 2018. As the Landlord’s application had merit I find that the Landlord is entitled to recovery of the \$100.00 filing fee and I order the Landlord to deduct this amount from the security deposit of \$795.00 plus zero interest in full satisfaction of that claim.

Conclusion

I grant an Order of Possession to the Landlord effective 1:00 p.m. on October 31, 2018. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the Landlord retain \$100.00 from the security **deposit** and interest of \$795.00 in full satisfaction of the claim.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 19, 2018

Residential Tenancy Branch