



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LOOKOUT HOUSING AND HEALTH
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPM

Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the *Act*) for an Order of Possession based on a Mutual Agreement to End Tenancy (the Mutual Agreement) signed by the landlord's representatives and the tenant on April 1, 2019.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:42 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord's representatives testified that they sent the tenant a copy of their dispute resolution hearing package and written evidence by registered mail on June 8, 2019. They said that the tenant was available to receive this package shortly thereafter, after the tenant had been released from incarceration. They provided the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was deemed to have been served with this package on June 13, 2019, the fifth day after its registered mailing.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession on the basis of the Mutual Agreement between the parties?

Background and Evidence

The landlord entered into written evidence a copy of the Mutual Agreement requiring the tenant to vacate the rental unit by May 1, 2019. The landlord's representatives testified that the landlord had accepted payments from the tenant for May, June and July 2019, for use and occupancy only and not to reinstate the tenancy. They requested an Order of Possession, which could only take effect by July 30, 2019, the last day when the tenant's payments for use and occupancy only would enable the tenant to remain in the rental unit.

Analysis

Paragraph 55(2)(d) of the *Act* reads in part as follows:

(2) A landlord may request an order of possession of a rental unit... by making an application for dispute resolution:

(d) the landlord and tenant have agreed in writing that the tenancy is ended...

As there is undisputed sworn testimony and written evidence that the tenant has signed the Mutual Agreement enabling the landlord to obtain an end to this tenancy, I allow the landlord's application. Although the date identified on the Mutual Agreement was May 1, 2019, the landlord has accepted payments from the tenant for use and occupancy enabling the tenant to remain in the rental unit until July 31, 2019, when the period of occupancy ends. The tenant must vacate the rental unit by that date.

Conclusion

The landlord is provided with a formal copy of an Order of Possession effective by 1:00 p.m. on July 31, 2019. 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: July 18, 2019

Residential Tenancy Branch