



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDCL-S MNDL-S MNRL-S OPN

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on August 2, 2019 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property;
- a monetary order for money owed or compensation for damage or loss;
- a monetary order for unpaid rent;
- an order to retain the Tenant's security deposit; and
- an order granting recovery of the filing fee.

The Landlord A.T., the Tenant and the Tenant's Advocate A.S. attended the hearing at the appointed date and time and provided affirmed testimony.

The Landlord testified the Application and documentary evidence package was served to the Tenant by registered mail on August 17, 2019. The Tenant confirmed receipt. Pursuant to section 88 and 89 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*. The Tenant confirmed that she did not submit any evidence in preparation for this hearing.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to 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.

Preliminary Matters

The Residential Tenancy Branch Rules of Procedure permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. For example, if a party is applying for an order of possession, an Arbitrator may decline to hear other claims that have been included in the application and the Arbitrator may dismiss such matters with or without leave to reapply.

I find that the most important issue to determine is whether or not the tenancy is ending based on the Tenant's one month notice to end tenancy.

The Landlords' request for a monetary order for money owed or compensation for damage or loss, a monetary order for unpaid rent, and an order to retain the security deposit are dismissed with leave to reapply.

Issue(s) to be Decided

1. Are the Landlords entitled to an order of possession based on the Tenant's one month notice to end tenancy, pursuant to Section 55 of the *Act*?
2. Are the Landlords entitled to the return of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

At the outset of the hearing, the parties agreed that the Tenant provided a notice to end tenancy to the Landlord in writing on June 28, 2019 with an effective vacancy date of July 31, 2019. The parties agreed that the Tenant has since vacated the rental unit, however, the Tenant's co-tenant continues to occupy the rental unit. The Landlord stated that the rent has not been paid and that the rental unit is being damaged by the remaining Tenant. Both parties agreed that the Landlord should be provided with an order of possession to end the tenancy as was intended when the Tenant issued the notice to end tenancy.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 55(2) of the Act states; A landlord may request an order of possession of a rental unit by making an application for dispute resolution if; (a) a notice to end the tenancy has been given by the tenant.

I accept that the parties agreed that the Tenant provided the Landlord with her written notice to end tenancy on June 28, 2019 with an effective vacancy date of July 31, 2019. I accept that the Tenant has vacated the rental unit, however, her co-tenant continues to occupy the rental unit. I accept that the parties agreed that the Landlord should be granted a two day order of possession based on the Tenant's notice to end tenancy.

In light of the above, I grant the Landlords with a two-day Order of Possession which must be served on the Tenants. If the Tenants do not vacate the rental unit within the two days required, the Landlords may enforce this Order in the Supreme Court of British Columbia.

As the Landlords were successful with their Application seeking an order of possession, I find the Landlords are entitled to recover the \$100.00 filing fee paid to make the Application which they may deduct from the Tenants' security deposit.

Conclusion

Pursuant to Section 55 of the Act, I grant the Landlords an Order of Possession to be effective two days after notice is served on the Tenants. Should the Tenants 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: October 04, 2019

Residential Tenancy Branch