



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREEN TREE ESTATES LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPM, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on September 10, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a Mutual Agreement to End Tenancy dated April 26, 2019 (the "Mutual Agreement") and;
- an order granting recovery of the filing fee.

The hearing was scheduled for 11:00 A.M. on November 21, 2019 as a teleconference hearing. The Landlords Agents, L.M. and T.M. appeared on behalf of the Landlord and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 10 minutes before the call ended. 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's Agents and I were the only persons who had called into this teleconference.

The Landlord's Agents testified the Application and documentary evidence package was served to the Tenant by registered mail on September 18, 2019. The Landlord submitted a registered mail receipt confirming the mailing. Based on the oral and written submissions of the Applicants, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence on September 23, 2019, the fifth day after the registered mailing.

Preliminary Matters

At the start of the hearing, the Landlord's Agents requested to amend the Landlord's Application to withdraw the claim for the return of the filling fee made to make the Application. As such, the claim was withdrawn accordingly.

The Landlord's Agents 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.

Issue to be Decided

1. Is the Landlord entitled to an order of possession based on Mutual Agreement to End Tenancy, pursuant to Section 55 of the *Act*?

Background and Evidence

The Landlord's Agents stated that the rental property was recently purchased by a new owner and that on April 26, 2019 the parties came together and mutually agreed to end the tenancy effective December 1, 2019 at 12:00 P.M. The Landlord submitted a copy of the Mutual Agreement which is signed by both parties.

The Landlord's Agents stated that they are seeking an order of possession in relation to the mutually agreement to end tenancy.

Analysis

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

Section 55(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

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

The Landlord's Agents stated that they are seeking the order of possession based on the mutual agreement to end tenancy which was entered into on April 26, 2019 with an effective vacancy date of December 1, 2019.

The Landlord has submitted a copy of the Mutual Agreement which appears to be signed by both parties. I find that the Mutual Agreement meets the requirements set out in Section 52 of the Act for form and content.

As such, I find that the Landlord is entitled to an Order of Possession effect December 1, 2019 at 12:00 P.M. which is the effective date and time that the parties mutual agreed to end the tenancy on.

Conclusion

The parties mutually agreed to end the tenancy on December 1, 2019 at 12:00 P.M. Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective on December 1, 2019 at 12:00 P.M. after the Order is served to the Tenant. 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: November 21, 2019

Residential Tenancy Branch