



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 dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession because the tenant has signed a Mutual Agreement to End Tenancy (the Mutual Agreement) and the landlord is concerned that the tenant may not surrender vacant possession of the rental unit to the landlord pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord's agent 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 teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord's agent confirmed that the tenant was provided with a copy of the Mutual Agreement when it was signed on April 26, 2019. The landlord's agent gave sworn testimony that they sent a copy of the dispute resolution hearing package to the tenant by registered mail on September 18, 2019. The landlord's agent provided a copy of the Canada Post Tracking Number and information from Canada Post's Online Tracking System to confirm that the package was mailed to the tenant and that the tenant signed for delivery of the package on September 19, 2019. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with this Notice on September 23, 2019, the fifth day after its registered mailing.

At the hearing, the landlord's agent withdrew the application to recover the landlord's filing fee from the tenant. The landlord's application to recover the filing fee is hereby withdrawn.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession based on the Mutual Agreement to End Tenancy? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord's agent testified that the tenant was living in the property owner's manufactured home when the landlord purchased this property and the manufactured homes situated on this property. The Mutual Agreement entered into written evidence by the landlord was signed by the parties on April 26, 2019, shortly after the landlord completed the purchase of this property. The effective date of this Mutual Agreement is December 1, 2019.

The landlord's agent said that they were uncertain as to whether the tenant intended to vacate the manufactured home they have been renting from the landlord in accordance with the Mutual Agreement. The landlord's agent requested an Order of Possession to be used in the event that the tenant did not abide by the terms of the Mutual Agreement and vacate the rental unit by 12:00 p.m. on December 1, 2019.

Analysis

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

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:...*

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

As I am satisfied that the Mutual Agreement entered into written evidence was on the prescribed Residential Tenancy Branch form and complied with the requirements of the *Act*, I allow the landlord's application to end this tenancy in accordance with the Mutual

Agreement. I issue an Order of Possession that takes effect at 12:00 p.m. on December 1, 2019, the date and time specified in the Mutual Agreement.

Conclusion

I allow the landlord's application to end this tenancy. The landlord is provided with a formal copy of an Order of Possession effective at 12:00 p.m. on December 1, 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: November 22, 2019

Residential Tenancy Branch