



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

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

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was represented by its agent (the "landlord").

At the outset of the hearing the parties agreed that the individual who attended the hearing is the tenant for this tenancy and the appropriate party to be named as respondent. Based on the undisputed evidence of both parties and in accordance with Residential Rule of Procedure 7.13 I add the respondent SD (the "tenant") as a party and the style of cause is amended accordingly.

As both parties were present service was confirmed. The tenant confirmed receipt of the landlord's application and materials. Based on the testimonies I find that the tenant was duly served with the landlord's materials in accordance with sections 88 and 89 of the *Act*.

Background and Evidence

This tenancy began on April 5, 2020. A security deposit of \$950.00 was collected and is still held by the landlord. During the hearing the tenant testified that they have vacated the rental unit and consent to an Order of Possession being granted in the landlord's favour.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

The parties gave evidence that the tenant has vacated the rental unit and that the tenant consents to an Order of Possession being granted to the landlord. The landlord testified that they are still seeking an Order in order to safely secure the rental unit. The landlord's witness, a police officer, testified that while the tenant appears to have vacated there are individuals who are attempting to access the rental unit.

I find that I am satisfied with the evidence of the parties that there is a continuing risk to the landlord's property and that an Order of Possession is appropriate.

Pursuant to section 4(1) of the *Ministerial Order M089* issued March 30, 2020 pursuant to the State of Emergency declared on March 18, 2020, I find that it would be unreasonable for the landlord to wait for this state of emergency to end prior to receiving an Order of Possession to protect the rental property from significant ongoing risk. Therefore, in accordance with section 4(1) of the Ministerial order and pursuant to section 56 of the *Act*, I find that the landlord is entitled to an Order of Possession.

As the landlord's application was successful the landlord is entitled to recover the filing fee for this application. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's \$950.00 security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The security deposit for this tenancy is reduced to \$850.00.

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: May 12, 2020

Residential Tenancy Branch