



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, FFL

Introduction

On April 30, 2020, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a Mutual Agreement to End a Tenancy pursuant to Section 55 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing with J.R. attending as an agent for the Landlord. The Tenant attended the hearing as well, with D.A. attending as an advocate for the Tenant. All parties provided a solemn affirmation.

J.R. confirmed that he served the Notice of Hearing and evidence package to D.A. in person, to the Tenant’s partner in person, and by email to the Tenant on May 2, 2020, and the Tenant confirmed that he received this package. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served the Notice of Hearing and evidence package.

The Tenant confirmed that he did not submit any evidence for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession based on the Mutual Agreement to End a Tenancy?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on November 27, 2019. Rent was currently established at \$1,250.00 per month and was due on the first day of each month. A security deposit of \$625.00 was also paid. A signed, last page of the tenancy agreement was submitted as documentary evidence.

All parties agreed that a Mutual Agreement to End a Tenancy was signed by the parties on March 1, 2020 with an effective end date of the tenancy for April 30, 2020 at 1:00 PM. This signed agreement was entered into evidence. As the Tenant had not moved out by the effective date of the agreement, the Landlord applied for an Order of Possession.

All parties agreed that the Tenant had only paid half a month of rent for April 2020 and had not paid any rent subsequent to this.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

I note that Section 55 of the *Act* allows a Landlord to submit an Application for Dispute Resolution seeking an Order of Possession based on a Mutual Agreement to End a Tenancy, and I must consider if the Landlord is entitled to that Order if the agreement is valid.

As well, Section 44 of the *Act* allows a tenancy to end by mutual consent of both the Landlord and the Tenant.

In considering this matter, I have reviewed the Mutual Agreement to End a Tenancy and both the Landlord and Tenant signed and agreed to the terms stated in that agreement. Based on the undisputed evidence before me, I am satisfied that the Landlord and Tenant agreed to mutually end the tenancy on April 30, 2020 at 1:00 PM. As the Tenant failed to vacate the rental unit by this time, I find that the Landlord is entitled to an Order

of Possession. As the Tenant has not paid the entirety of April 2020 rent, and has not paid anything since then, the Order of Possession will be effective **two days after service of this Order** on the Tenant.

As the Landlord was successful in this Application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to retain this amount from the security deposit in satisfaction of the amount awarded.

Conclusion

The Landlord is provided with a formal copy of an Order of Possession effective **two days after service of this Order**. Should the Tenant or any occupant 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.

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: June 8, 2020

Residential Tenancy Branch