



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, FFL

Introduction

The landlord filed an Application for Dispute Resolution (the “Application”) on May 6, 2020 seeking an order of possession of the rental unit. Additionally, the landlord is seeking an order to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on June 9, 2020. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord confirmed service of the notice for this hearing to the tenant on May 8, 2020 via registered mail. They provided the Canada Post tracking number and confirmed completion of that delivery on May 11, 2020.

The landlord gave testimony that the address they provided on the registered mail package was that of the last known address they had for the tenant, that of the rental unit. They used this address on the basis that they were not sure if the tenant moved out on the agreed-upon date of May 1. Then when the landlord visited the unit shortly thereafter other occupants were present and they prevented the landlord from assessing the situation.

I accept the landlord’s undisputed evidence that the unit was still occupied and that made it the logical address for the landlord to use for service of the documents to the tenant. Based on this, I accept the tenant was served notice of this hearing and the landlord’s application in a manner complying with section 89(1)(c) of the *Act*, and the hearing proceeded in the tenant’s absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for a mutual agreement to end a tenancy 55 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section. The landlord applied for an order of possession pursuant to the Mutual Agreement to End Tenancy they signed jointly with the tenant on April 15, 2020.

The landlord presented a copy of the prior tenancy agreement that was in place. It provides that the tenancy started on March 1, 2020. This sets out the monthly rent of \$1,300.00, payable on the first day of each month. The security deposit amount was \$650.00.

The tenancy ended by mutual agreement because the tenant stated they could not pay the rent for the month of April. The landlord delivered this document, the 'Mutual Agreement to End Tenancy', on April 15, 2020 by hand-delivering it to the tenant. The tenant signed the required space on a 'Proof of Service' document to show they received the same.

The landlord seeks an order of possession in order to secure their possession over the property. This is primarily to prevent other parties from occupying the unit without a tenancy.

Analysis

Section 44(c) of the *Act* allows a landlord and tenant to end a tenancy by making an agreement in writing.

Section 55(2)(d) provides that a landlord may request an order of possession where the landlord and tenant have agreed in writing that the tenancy is ended.

The landlord and tenant completed a 'Mutual Agreement to End a Tenancy' on April 15, 2020. The date for the tenant to vacate was May 1, 2020. Based on this document that bears both parties' signatures as proof of the fact that the tenancy has ended on mutual agreement, I grant an order of possession to the landlord.

As the landlord was successful in this application, I find the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlord effective two days after service of this Order on 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.

I grant a monetary order to the landlord in the amount of \$100.00 for the application filing fee. This monetary order must be served on the tenant. Should the tenant fail to comply with this order the landlord may file it in the Provincial Court (Small Claims) and have it enforced as an order of that court.

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 11, 2020

Residential Tenancy Branch