



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Benchmark Management Ltd and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPM, FFL

Introduction

The landlord filed an Application for Dispute Resolution (the “Application”) on July 3, 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 August 4, 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 tenants on July 9, 2020 by posting the notice on the rental unit’s door, that belonging to the tenants. The landlord stated they provided the single piece of evidence they presented in this hearing.

This is the known address of the tenants, and the tenants are still occupying the unit. This is the acceptable address for the landlord to use for service of the notice of this hearing.

I accept the landlord’s evidence on service of the notice of this hearing. Based on this, I accept the tenants were served notice of this hearing and the landlord’s application in a manner complying with section 89(2)(d) of the *Act*, and the hearing proceeded in the tenants’ absence.

Preliminary Issue

The Application completed by the landlord names two tenants. A ‘Termination Agreement’ provided by the landlord as evidence in this hearing also names two tenants. In clause 5) of the agreement, one tenant “confirms that [co-tenant] has vacated as of 1 Sept 2019 and no longer resides on the premises.”

Based on this, I find there is one tenant residing in the unit, and so refer to a single tenant throughout this decision.

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

The landlord applied for an order of possession pursuant to the 'Termination Agreement' they signed jointly with the tenant on June 18, 2020. They present this is a Mutual Agreement to End Tenancy with the fixed tenancy end date of November 30, 2020 at 13:00 hours.

The landlord gave oral evidence on the details of the existing tenancy agreement. They stated that the tenancy started on September 25, 2017, with two tenants signing the agreement on September 26, 2017. The tenancy initially started as a month-to-month tenancy with the rent amount at \$1,500.00 per month. The tenants initially paid a security deposit of \$750.00.

The landlord presented that the tenancy will end by mutual agreement because of serious issues that would warrant a one-month notice from the landlord to end the tenancy. The tenant who signed the agreement consulted with the landlord on an agreed-upon end date.

Both the landlord and tenant signed the agreement dated June 18, 2020. The document itself specifies November 30, 2018 as the date on which the tenant agrees "to give up peaceful and vacant possession of the said premises at that time." The agreement itself contains the provision of the *Act* that states "A tenancy ends. . . if. . . the landlord and tenant agree in writing to end the tenancy."

The landlord seeks an order of possession in order to secure their possession over the property in line with this Mutual Agreement to End 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 June 18, 2020. The date for the tenant to vacate was November 30, 2020. Based on this document that bears both parties' signatures as proof of the fact that the tenancy will end on mutual agreement, I grant an order of possession to the landlord.

As the Application in this matter was not contentious and concerns a mutual agreement, I find the landlord is not entitled to the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlord effective November 30, 2020 at 13:00 hours. The Order of Possession names the single tenant still residing in the unit, where the co-tenant had previously vacated on September 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 *Act*.

Dated: August 5, 2020

Residential Tenancy Branch