



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “Act”) for an order of possession of the rental unit. The matter was set for a conference call.

Both the Tenant and the Landlord attended the hearing and were each affirmed to be truthful in their testimony. Both parties were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter is described in this Decision.

Issue to be Decided

- Is the Tenant entitled to an order of possession for the rental unit?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement shows that this tenancy began on December 1, 2015, as a one-year fixed term tenancy that rolled into a month-to-month tenancy at the end of the initial fixed term. Rent in the amount of \$850.00 per month is to be paid by the first day of each month, and that the Tenant had paid the Landlord a \$425.00 security deposit at the outset of this tenancy. The Landlord provided a copy of the tenancy agreement into documentary evidence.

The Tenant testified that when they returned home on February 4, 2021, the locks to the rental unit had been changed by the Landlord and that a stranger was outside the door of the rental property who told them that they would not be allowed back and if they tried the police would be called. The Tenant testified that as of the date of this hearing, they have not been permitted back in the rental unit and that all of their personal property is still in the rental unit.

The Landlord testified that they had not changed the locks, that it was the Tenant who had changed the locks. The Landlord testified that on February 4, 2021, they had gotten into a disagreement with the Tenant regarding a notice to end the tenancy and that the local police had been called to the property. The Landlord testified that when the police attended, they attempted to conduct a wellness check on the Tenant and that when the Tenant did not answer their front door, the Landlord attempted to use their key to let the police in but that their key did not work. The Landlord testified that the police called a locksmith to gain entry into the rental unit in order to conduct the wellness check on the Tenant.

The Landlord testified that they had left the front door to the rental unit unlocked since the police opened it and confirmed that the Tenant's possessions are still in the rental unit.

Both parties agreed that as of the date of these proceedings, this tenancy has not ended by notice from either the Tenant or the Landlord or by order of the Residential Tenancy Branch.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, the Tenant is seeking an order of possession of the rental unit, section 54 of the *Act* states the following:

Order of possession for the tenant

54 (1) *A tenant who has entered into a tenancy agreement with a landlord may request an order of possession of the rental unit by making an application for dispute resolution.*

(2) *The director may grant an order of possession to a tenant under this section before or after the date on which the tenant is entitled to occupy the rental unit under the tenancy agreement, and the order is effective on the date specified by the director.*

(3) *The date specified under subsection (2) may not be earlier than the date the tenant is entitled to occupy the rental unit.*

I have reviewed the tenancy agreement signed between the Landlord and the Tenant and find that these parties entered into a legally binding tenancy agreement in accordance with the *Act*.

I accept the agreed-upon testimony of these parties that neither the Tenant nor the Landlord had issued a notice that would have ended this tenancy as of the date of these proceedings.

During these proceedings, the parties offered conflicting verbal testimony regarding who had changed the locks to the rental unit. However, I find this to be a moot point, as there is no claim before me for compensation, that would require a determination of fault. What I must determine in these proceedings is whether or not the Tenant has the right to the possession of the rental unit.

As stated above, the parties in this case, are in agreement that this tenancy has not ended in accordance with the *Act* as of the date of this proceedings; therefore, pursuant to section 54 of the *Act*, I find that the Tenant is entitled to an Order of Possession of the rental unit effective immediately.

Conclusion

Pursuant to section 54 of the *Act*, I grant the Tenant's application for an order of possession of the rental.

I grant an **Order of Possession** to the Tenant effective **Immediately** after service of this Order on the Landlord. Should the Landlord 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: March 11, 2021

Residential Tenancy Branch