



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding M'akola Housing Society and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes OPQ, FFL

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not participate in the conference call hearing. I accept the Landlord's evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence (the “Package”) by registered mail on November 1, 2021 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Package on November 6, 2021. The Landlord was given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started on August 1, 2009. Market rent for the unit is set at \$2,200.00. Subsidized rent of \$311.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$485.00 as a security deposit. The Tenant failed to provide required financial information to the Landlord to determine qualification for the rental unit. On August 18, 2021 the Landlord served the Tenant by registered mail with a two month notice to end tenancy because the Tenant does not qualify for the rental unit (the "Notice"). The Tenant did not dispute the Notice. The Landlord requests an order of possession for January 4, 2022.

Analysis

Section 55(2)(b) of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Based on the undisputed evidence that the Landlord gave the Tenant the Notice, that the Tenant did not dispute that Notice and that the Tenant failed to qualify for the rental unit, I find that the Landlord is entitled to an order of possession as requested. As the Landlord has been successful with this claim I find that the Landlord is entitled to recovery of the \$100.00 filing fee and the Landlord may deduct this amount from the security deposit of \$485.00 in full satisfaction of this claim.

Conclusion

I grant an Order of Possession to the Landlord effective 1:000 p.m. on January 4, 2022. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The Landlord may retain \$100.00 from the security deposit in full satisfaction of the claim.

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: December 13, 2021

Residential Tenancy Branch