



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VIBONA ENTERPRISES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: ET FFL

Introduction

The landlord sought an order to end the tenancy and an order of possession of the rental unit pursuant to section 56 of the *Residential Tenancy Act* ("Act"). In addition, the landlord applied to recover the cost of the filing fee pursuant to section 72 of the Act.

The landlord and two witnesses attended the hearing, while the tenant did not. I am satisfied with the documentary evidence before me that she was served with a Notice of Expedited Hearing Dispute Resolution Proceeding in accordance with the Act and the Residential Tenancy Branch's *Rules of Procedure*.

Preliminary Issue: Tenancy Has Ended

The landlord testified that the tenant vacated the rental unit on December 10, 2021, after the tenant had given written notice that she would be vacating on that date at 6:00 PM. A copy of the tenant's signed document was submitted into evidence.

In his written submission, the landlord explained that the tenant "moved out that day leaving me with a lot of debris, 2 squatters and a cat. I don't know the squatters' names, but they've since changed the locks on the door, parked their car and seem to be determined to stay there."

Given the circumstances of the landlord's rental unit and its habitation by unknown persons that were not parties to a now-ended tenancy agreement, taking into account that the tenant gave notice that the tenancy would end on December 10, 2021 and in fact vacated on that date, and, last, in view of the tenant not disputing this application, it is my finding that the landlord is entitled to an order of possession of the rental unit pursuant to section 55(2)(d) of the Act. Also, important to note is that the parties signed a *Mutual Agreement to End a Tenancy* document on November 4, 2021. A copy of this agreement was in evidence.

Section 55(2)(d) of the Act permits a landlord to obtain an order of possession where “the landlord and tenant have agreed in writing that the tenancy is ended.”

While the landlord applied for orders under section 56(1) of the Act (“Application for order ending tenancy early”), as the tenancy is over and there is a mutual agreement to end the tenancy, it is my finding that the landlord’s application be amended pursuant to section 64(3)(c) of the Act and Rule 10.7 of the *Rules of Procedure*, to permit my granting an order of possession under section 55(2)(d) of the Act.

Conclusion

IT IS HEREBY ORDERED THAT:

1. the tenancy ended effective December 10, 2021 at 6:00 PM;
2. the landlord be granted an order of possession, and a copy of this order of possession is issued in conjunction with this decision. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia; and,
3. the landlord is entitled to retain \$100.00 of the tenant’s security deposit pursuant to section 72 of the Act, to pay for the filing fee.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: December 17, 2021

Residential Tenancy Branch