



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT

Introduction

This expedited hearing dealt with the tenant's application pursuant to section 54 of the *Residential Tenancy Act* (the *Act*) for an Order of Possession of the rental unit.

The landlord did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The tenant attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that they served the landlord with the notice of hearing and evidence by registered mail sent on February 10, 2022. The tenant provided a valid Canada Post tracking number as evidence of service. Based on the evidence I find that the landlord is deemed served with the tenant's materials on February 15, 2022, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The tenant gave undisputed evidence regarding the following facts. The parties entered a tenancy agreement commencing January 15, 2022 with monthly rent of \$1,200.00 payable on the first of each month. A security deposit of \$500.00 and pet damage deposit of \$500.00 were paid at the start of the tenancy and are still held by the landlord. A copy of the tenancy agreement electronically signed by both parties was submitted into evidence.

The tenant testified that the locks to the rental unit was changed and they were barred from accessing the rental unit on February 5, 2022. The tenant, with the assistance of local police, did access the rental unit temporarily to rescue their pets from the property. The tenant now seeks an Order of Possession to access the rental unit and remove their personal possessions.

Analysis

In accordance with section 54 of the Act a tenant who has entered into a tenancy agreement may request an order of possession of the rental unit.

I find that the documentary evidence by way of the tenancy agreement electronically signed by both parties to be sufficient to establish that there was an enforceable tenancy agreement. Accordingly, I issue an Order of Possession in the tenant's favour allowing them access to the rental unit.

The tenant made reference to incurring significant monetary losses due to the actions of the landlord including finding alternate accommodations, travel costs and the loss of the rent paid. While I have no reason to doubt the validity of these claims, as noted in Residential Tenancy Policy Guideline 51 an application for an expedited hearing cannot be combined with another claim, such as a request for monetary compensation.

Therefore, while I decline to amend the present application to add other claims the tenant is at liberty to file a separate application for monetary compensation including the return of any rent previously paid or recovery of the security and pet damage deposit held by the landlord.

Because I am concerned with the fundamental nature of the violation on the part of the landlord by barring access to the rental unit to the tenant and imprisoning the tenant's pets inside of the rental unit, I am sending a copy of this decision to my manager.

My manager will review this decision and if they are of the opinion that these circumstances could reasonably lead to administrative penalties, then they will send a copy of this decision along with any other relevant materials from this dispute resolution file to the Compliance and Enforcement Unit. This separate unit of the Residential Tenancy Branch is responsible for administrative penalties that may be levied under the Act. They have the sole authority to determine whether to proceed with a further investigation into this matter and the sole authority to determine whether administrative penalties are warranted in these circumstances. After any dispute resolution materials are sent, neither I nor my manager play any role in their process and, if the Compliance and Enforcement Unit decides to pursue this matter, they do not provide me or my manager with any information they may obtain during their process.

Before any administrative penalties are imposed, a person will be given an opportunity to be heard. While the Compliance and Enforcement Unit can review the contents of this dispute resolution file, they can also consider additional evidence that was not before me. They are not bound by the findings of fact I have made in this decision. The orders made in this decision are, however, final and binding and cannot be challenged or set aside in the administrative penalty process.

Any further communications regarding an investigation or administrative penalties will come directly from the Compliance and Enforcement Unit.

Conclusion

I grant an Order of Possession in the tenant's favour effective two (2) days after service 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 1, 2022

Residential Tenancy Branch