



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Westcorp Ventures Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPM, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. On January 13, 2022, the Landlord applied for:

- an order of possession, as the Tenant signed a mutual agreement to end the tenancy, but did not vacate the rental unit; and
- the filing fee.

The Landlords attended the hearing; the Tenant did not. The Landlords were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Landlord testified they served the Notice of Dispute Resolution Proceeding (NDRP) and evidence on the Tenant by registered mail on January 27, 2022, and provided a Canada Post tracking number (noted on the cover page of this decision) and delivery report. Based on the Landlord's affirmed testimony and documentary evidence, I find the Tenant served in accordance with section 89 of the Act, and deem the documents received by the Tenant on February 1, 2022, in accordance with section 90 of the Act.

Issue to be Decided

- 1) Are the Landlords entitled to an order of possession?
- 2) Are the Landlords entitled to the filing fee?

Background and Evidence

The Landlord provided the following particulars regarding the tenancy. It began May 1, 2021; rent is \$1,500.00, due on the first of the month; and the Tenant did not pay a security deposit. A copy of the tenancy agreement is submitted as evidence.

The Landlord testified that on March 15, 2021, the Tenant and the former landlord signed a mutual agreement to end the tenancy, agreeing that the Tenant would vacate the rental unit on December 31, 2021 at 12:00 p.m. The current Landlord testified that they purchased the unit in October 2021 and the title transferred on January 7, 2022.

The Landlord testified that they are still seeking an order of possession as the Tenant has not vacated the rental unit.

A copy of the completed and signed Mutual Agreement to End a Tenancy is submitted as evidence.

Analysis

The Landlords have provided affirmed undisputed testimony and documentary evidence that on March 15, 2012 the Tenant and the former landlord signed a mutual agreement to end the tenancy on December 31, 2021.

Section 44(1)(c) of the Act states that a tenancy ends if the landlord and tenant agree in writing to end the tenancy.

The Landlords have testified that the Tenant has not vacated the rental unit as agreed.

I find that as ownership of the property has been transferred to the current Landlords, the Landlords are entitled to an order of possession, based on the mutual agreement between the Tenant and the former landlord to end the tenancy, and in accordance with section 55(2)(d) of the Act.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlords are successful in their application, I order the Tenant to pay the \$100.00 filing fee the Landlords paid to apply for dispute resolution.

I find the Landlords are entitled to a monetary order in the amount of \$100.00.

Conclusion

The Landlords' application is granted.

The Landlords are granted an order of possession which will be effective 1:00 p.m. on April 30, 2022. The order of possession must be served on the Tenant. The order of possession may be filed and enforced as an order of the Supreme Court of British Columbia.

The Landlords are granted a monetary order in the amount of \$100.00. The monetary order must be served on the Tenant. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: April 11, 2022

Residential Tenancy Branch