



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lookout Housing and Health Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPM, FFL**

Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order of possession based on a signed mutual agreement to end the tenancy pursuant to section 55; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:41 a.m. to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by JK (“landlord”). The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that he personally served the tenant with the Notice of Dispute Resolution Hearing package on February 17, 2022 in the afternoon. The landlord personally served the tenant with more evidence on May 2, 2022. I am satisfied the tenant was sufficiently served with the Notice of Dispute Resolution Hearing package on February 17, 2022 in accordance with sections 89 and 90 of the Act. This hearing was conducted in the absence of the tenant in accordance with rule 7.3 of the Rules of Procedure.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the mutual agreement to end the tenancy?

Can the landlord recover the filing fee?

Background and Evidence

The landlord gave the following testimony. The tenancy began on August 19, 2019 with rent set at \$375.00 per month. The landlord collected a security deposit of \$187.50 at the commencement of the tenancy.

On October 27, 2021 the tenant and the landlord's agent, a coordinator at the housing facility, signed a mutual agreement to end the tenancy. A copy of the agreement was provided as evidence. The agreement shows the tenancy was to end on February 1, 2022 and the agreement bears the signature of both the landlord and tenant. The landlord attending this hearing testified that he witnessed the tenant sign the document, although the witness's signature does not appear on the document.

The landlord has not collected any rent money from the tenant after the effective date stated on the mutual agreement to end the tenancy.

Analysis

Section 55(2)(d) states:

A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(d) the landlord and tenant have agreed in writing that the tenancy is ended.

I have reviewed the mutual agreement to end tenancy form provided by the landlord as evidence for this hearing. I accept the landlord's undisputed testimony that the tenant willingly signed this document in the landlord's presence. I have no reason to believe the tenant did not understand what he signed or signed it under duress or coercion. Consequently, I uphold the mutual agreement to end the tenancy and issue an Order of Possession to the landlord. As the effective date stated on the agreement has passed, I issue an Order of Possession effective 2 days after service upon the tenant.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application. In accordance with the offsetting provision of section 72 of the Act, the landlord may retain \$100.00 of the tenant's security deposit in full satisfaction of the award.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in 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: May 17, 2022

Residential Tenancy Branch