



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1059592 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPT

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. On December 19, 2022 the tenant applied for an order of possession of the rental unit.

The hearing was attended by the landlord, the tenant, and his advocate. The parties were given a full opportunity to be heard, to present affirmed 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.

Neither party raised an issue regarding service of the hearing materials.

Issue to be Decided

Is the tenant entitled to an order of possession of the rental unit?

Background and Evidence

The parties agreed on the following particulars. The tenancy began May 1, 2022; rent is \$2,200.00, due on the first of the month; and the tenant paid a security deposit of \$1,100.00 and a pet damage deposit of \$1,100.00, which the landlord still holds. The parties agree that the landlord has served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The tenant testified that he was locked out of the unit on December 17, 2022; the landlord testified that the tenant still resides there.

The tenant testified that while walking his dog on December 17, 2022, he received a text from a former co-worker, stating that the landlord had changed the locks to the rental unit. The tenant testified that when he returned home, his keys did not work, and the locks had been changed. The tenant stated that he had been looking after his former co-worker's cat, but had not been without his keys. The tenant testified he contacted the RCMP to try to recover his belonging from the apartment, but had no contact with the landlord. The tenant testified that on December 20 he heard from his former co-worker, who "was very vague with any information," so the tenant visited the rental unit, finding some of his belongings in the dumpster and the unit door open with activity inside. The tenant said he knocked on the door, and his former colleague answered and told the tenant the landlord had signed a tenancy agreement with her on December 17, 2022.

The landlord testified she did not change the lock, that the tenant had given out many keys to others, and that there were "tons of people back and forth to the unit." The landlord testified there was no one else currently living in the rental unit, and that she would have no issue with me granting the tenant an order of possession.

The tenant testified he knows someone is staying in the unit as he has screenshots from his internet provider showing that someone is connecting to his Wi-Fi.

I asked the tenant if he had given keys to anyone else; he testified that he had given keys to a former roommate who moved out in November 2022. The tenant testified he had not been able to receive the keys from the roommate, but understood that the keys had been returned to the landlord.

The landlord testified she has "done nothing with keys" for this unit since the tenancy began May 2022, and that she had not received keys to the unit in November 2022, or since.

Analysis

Section 54(2) of the Act provides that an arbitrator may grant an order of possession to a tenant before or after the date on which the tenant is entitled to occupy the rental unit under the tenancy agreement, and the order is effective on the date specified by the director.

The tenant testified that they returned to the rental unit on December 17, 2022 to find that the locks had been changed and his key did not work. The tenant testified that he

was informed by a former colleague that the landlord had entered into a new tenancy agreement with her on December 17, 2022.

The landlord testified that she did not change the lock, that the tenant had given out many keys to others, and that there was a lot of activity to and from the rental unit. The landlord testified there was no new tenancy agreement, the tenant has possession of the unit, and the landlord would have no issue with the Residential Tenancy Branch granting the tenant an order of possession.

While from the testimony of the parties it is not clear what has transpired with this unit, because the tenant has applied for an order of possession, the landlord is not opposed and has confirmed there is an ongoing tenancy, and I find the tenant is entitled to occupy the rental unit under the tenancy agreement and may require the force of the director to gain access to the unit, I grant the tenant an immediate order of possession pursuant to section 54(2).

Conclusion

The tenant is granted an immediate order of possession. The order of possession 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: January 05, 2023

Residential Tenancy Branch