



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence in person on November 20, 2022 in accordance with Section 89 of the Act. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

It was noted that the Landlord’s address in the application sets out the dispute address. The Landlord confirms that they live in the upper part of the house and the Tenant lives in the lower part of the house in a separate suite. The Landlord confirms that the Landlord’s basement suite address in the application was made in error.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started in June 2018. Rent of \$670.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$335.00 as a security deposit. On September 17, 2022 the Parties signed a mutual agreement to end the tenancy for November 1, 2022. The Tenant has not moved out of the unit and has paid

no rent for January, February and March 2023. The Landlord seeks an order of possession for as soon as possible.

Analysis

Section 55(2)(d) of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where the landlord and tenant have agreed in writing that the tenancy is ended. Based on the undisputed evidence of a mutual agreement to end the tenancy for November 1, 2022 and on the undisputed evidence that the Tenant has not moved out of the unit I find that the Landlord is entitled to an order of possession. As the Landlord has been successful with its claim I find that the Landlord is entitled to recovery of the **\$100.00** filing fee and the Landlord may deduct this amount from the security deposit of \$335.00 in full satisfaction of this claim.

Conclusion

I grant an Order of Possession to the Landlord effective two days after service on the Tenant. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: March 16, 2023

Residential Tenancy Branch