



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: OPB, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, and retention of a portion of the security deposit in order to recover the filing fee. Agents for the landlord participated in the hearing and gave affirmed testimony. Despite being served in person on July 2, 2009 with the application for dispute resolution and notice of hearing, the tenant did not appear.

The landlord withdrew the earlier application for a monetary order as compensation for unpaid rent.

Issues to be decided

- Whether the landlord is entitled to any or all of the above

Background and Evidence

Pursuant to a written residential tenancy agreement, the fixed term of tenancy is from July 1, 2008 to June 30, 2009. Rent in the amount of \$495.00 is payable on the first day of the month, and a security deposit of \$245.00 was collected on June 13, 2008.

Despite the terms of the residential tenancy agreement, the tenant has declined to vacate the unit at the end of June 2009. In the meantime, the landlord has accepted payment of rent from the tenant for both July and August 2009 for use and occupancy only. The landlord seeks an order of possession effective August 31, 2009.

Analysis

Section 44 of the Act speaks to **How a tenancy ends** and provides in part, as follows:

44(1) A tenancy ends only if one or more of the following applies:

(b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;

Based on the documentary evidence and undisputed testimony of the landlord's agents, I find that the parties entered into a fixed term tenancy agreement, the terms of which are partially set out above. The tenant has declined to vacate the unit according to the terms of the agreement. Accordingly, and in view of the fact that rent has been paid up to the end of August 2009, I find that the landlord is entitled to an order of possession effective August 31, 2009.

As the landlord has succeeded in this application, I find the landlord has established entitlement to recovery of the \$50.00 filing fee. I therefore hereby order that the landlord retain \$50.00 from the tenant's security deposit following the end of tenancy.

The attention of the parties is drawn to Division 5 of the Act which speaks broadly to **At the End of a Tenancy**, and includes provisions relating to condition inspection and return of the security deposit. The full text of the legislation, fact sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Conclusion

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., Monday, August 31, 2009**. This order must be served on the tenant. 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.

Pursuant to section 67 of the Act, I hereby authorize the landlord to withhold **\$50.00** from the tenant's security deposit following the end of tenancy.

DATE: August 14, 2009

Dispute Resolution Officer