



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Elizabeth Manor / Bristol Estates
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPT

Introduction

This hearing concerns the tenant's application for an order of possession. The hearing was scheduled to commence at 11:30 a.m. on March 7, 2013. Both parties attended and gave affirmed testimony. However, at approximately 11:42 a.m. the tenant withdrew from the hearing. The tenant did not again call into the hearing following the passage of approximately 5 minutes, and the hearing was then concluded.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy was from February 15, 2013 to January 31, 2014. Monthly rent of \$725.00 was due and payable in advance on the first day of each month, and the landlord received a cheque for the first month's rent several days after the parties signed the agreement. A security deposit of \$362.50 was paid in cash by the tenant on February 1, 2013.

Subsequent to all the foregoing, the landlord decided not to proceed with the tenancy, and documented this decision in a "To Whom It May Concern" letter dated February 9, 2013. Thereafter, the landlord returned the cheque which had been received for rent, and repaid the full security deposit by way of issuing a new cheque. The tenant then filed her application for an order of possession on February 12, 2013.

During the hearing the landlord testified that the subject unit is still not occupied. For her part, the tenant testified that following the events giving rise to this dispute, she succeeded in finding alternate accommodation on or about February 28, 2013, and has

entered into a six (6) month fixed term tenancy agreement for same. During the hearing she provided the address for this unit which continues to be her current address.

Prior to withdrawing from the hearing, the tenant identified her displeasure with the way events had unfolded, and expressed some views around compensation. However, the only matter before me is the tenant's application for an order of possession.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 54 of the Act addresses an **Order of possession for the tenant**.

Based on the documentary evidence and testimony of the parties, I find that subsequent to the tenant's filing of an application for dispute resolution on February 12, 2013, she found alternate accommodation on or about February 28, 2013. Further, I find that the tenant entered into a six (6) month fixed term tenancy agreement for the alternate accommodation. This, in combination with the tenant's withdrawal from the hearing prior to its formal conclusion, leads me to dismissing the tenant's application.

Conclusion

The tenant's application is hereby dismissed.

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: March 07, 2013

Residential Tenancy Branch

