



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AVAUN PROPERTIES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPB LRE OLC PSF

Introduction

This hearing dealt with an application by both parties pursuant to the *Residential Tenancy Act* (“*Act*”):

The landlord sought:

- an Order of Possession pursuant to section 55 of the *Act*.

The tenant sought:

- an order for the landlord to provide services required by law pursuant to section 65;
- an order for the landlord to comply with the *Act* pursuant to section 62 of the *Act*, and
- an order suspending the landlord’s right to enter the unit pursuant to section 70.

The tenants and landlord’s agent, M.S. (the “landlord”), attended the hearing and were given a full opportunity to be heard, to present their sworn testimony and to make submissions.

The landlord confirmed receipt of the tenant’s application for dispute resolution in person on around June 29, 2017, while the tenant confirmed receipt of the landlord’s application for dispute and evidentiary package on around June 27, 2017. I find that pursuant to sections 88 & 89 of the *Act* both parties were duly served in accordance with the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Should the landlord's right to enter be suspended?

Should the landlord be directed to comply with the *Act*?

Should the landlord be ordered to supply facilities required by law?

Background and Evidence

Oral testimony and a copy of the residential tenancy agreement were supplied at the hearing by the landlord demonstrating that this was a fixed-term tenancy that ran from August 2, 2015 to August 3, 2017. Rent was \$700.00 and a security deposit of \$350.00 collected at the outset of the tenancy, continues to be held by the landlord.

The landlord explained he was seeking an Order of Possession based on the Fixed-Term Tenancy which the parties had signed in 2015. The tenant did not dispute the existence of a fixed-term tenancy, but noted that she had paid rent for August 2017. The landlord stated that following the expiration of the fixed-term tenancy on August 3, 2017 the tenant continued to reside in the property. On August 5, 2017 the landlord collected a payment of \$700.00 but provided the tenant with a receipt noting that the money was accepted for use and occupancy only.

The tenant is seeking repairs to the rental unit, specifically the ceiling and the walls. She explained that the landlord began repairing these items, but stopped repair works and she has now had to live with a partially finished ceiling.

Analysis

Section 55 of the *Act* notes that, "A landlord may request an order of possession of a rental unit by making an application for dispute resolution when the tenancy agreement is a fixed-term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed-term."

The issue of a fixed-term tenancy is explored in more detail by *Residential Tenancy Policy Guideline #30*. This guideline notes, "A fixed-term tenancy is a tenancy where the landlord and tenant have agreed that the tenancy agreement will begin on a specified date and continue until a predetermined expiry date... Fixed-term tenancy agreements must state the date the tenancy ends, and whether the tenancy may continue as a

periodic tenancy or for another fixed-term after that date or whether the tenant must vacate the rental unit on that date.”

I find the fixed-term tenancy entered into evidence at the hearing is valid and this tenancy ended on August 3, 2017. Due to the tenant’s continued occupation of the rental unit, on August 5, 2017 the landlord accepted a payment of \$700.00 for use and occupancy only. This did not create a new tenancy, it merely granted the tenant the ability to use and occupy the rental unit for the time period which she has paid for.

As this tenancy is ending, the tenant’s application for repairs to be made to the rental unit is dismissed.

The landlord is directed to comply with the *Act* and to provide the tenant with 24 hours written notice, if he intends to enter her unit prior to the end of her occupation.

Conclusion

I am granting the landlord an Order of Possession to be effective at 1:00 P.M. on August 31, 2017. The landlord is provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

The tenant’s application for repairs is dismissed.

The landlord is directed to comply with the *Act*.

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: August 9, 2017

Residential Tenancy Branch