



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- An order of possession of the rental unit based upon an agreement by the tenant to vacate.

The landlord attended the hearing; however, the tenant did not attend.

The landlord stated he served the tenant with his application for dispute resolution and Notice of Hearing by registered mail on July 9, 2020. The landlord provided the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. That number is listed on the style of cause page in this Decision.

I accept the landlord's evidence that the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his affirmed testimony, refer to his evidence, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules).

Issue(s) to be Decided

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

Background and Evidence

The landlord filed into evidence a written tenancy agreement signed by the parties on November 5, 2019, showing a tenancy start date of December 1, 2019, for a monthly rent of \$3,500.

The written tenancy agreement shows that the tenancy was for a fixed term ending on July 31, 2020. The parties agreed that the tenant would vacate the rental unit by July 31, 2020, due to the reason the landlord was moving into the property.

The landlord submitted that he was unsure the tenant would vacate per the agreement, and filed this application requesting the order of possession of the rental unit to ensure compliance with the written tenancy agreement.

The landlord also said the tenant did not pay monthly rent for July 2020.

Analysis

Based on the relevant evidence, and on a balance of probabilities, I find as follows:

Section 44(1)(b) of the Act provides that a tenancy ends if the tenancy agreement is a fixed term tenancy agreement that, in circumstances prescribed under section 97(2)(a.1), requires the tenant to vacate the rental unit at the end of the fixed term. Residential Tenancy Regulations 13.1 states that a tenant must vacate the rental unit at the end of the fixed term when the landlord is an individual and that landlord intends in good faith to occupy the rental unit at the end of the fixed term.

I find that to be the case here, as supported by the signed written tenancy agreement submitted in evidence, when the parties agreed that the tenant would vacate the rental unit by July 31, 2020 and the landlord would move into the rental unit.

I therefore find that the landlord is entitled to an order of possession of the rental unit under section 55(2)(d) of the Act.

Conclusion

The landlord's application is successful.

The landlord is granted an order of possession effective July 31, 2020, at 1:00 p.m. This order must be served on the tenant to be enforceable and may be enforced in the Supreme Court of British Columbia. I find the tenancy ends on July 31, 2020, at 1:00 p.m.

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: July 30, 2020

Residential Tenancy Branch