



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession. The hearing was conducted via teleconference and was attended by the landlord's legal counsel and both tenants.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for landlord's use of property and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord has submitted into evidence a copy of a tenancy agreement signed by the parties on August 4, 2014 for a 1 year and 1 day fixed term tenancy beginning on October 1, 2014 for a monthly rent of \$2,350.00 due on the 1st of each month with a security deposit of \$1,175.00 paid.

The landlord has also submitted into evidence a copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property dated July 10, 2015 with an effective date of October 1, 2015 citing the rental unit will be occupied by the landlord or the landlord's spouse or a close family member of the landlord or the landlord's spouse.

The tenants confirmed in their testimony that they received this Notice on July 10, 2015 and that they did not submit an Application for Dispute Resolution to seek to cancel the Notice at any time.

Analysis

Section 49 of the *Act* allows a landlord to end a tenancy if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

Section 49(2) stipulates that such a Notice can only be effective on a date that must be not earlier than 2 months after the date the tenant receives the notice and if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy. I find the Notice issued by the landlords on July 10, 2015 complies with these requirements.

Section 49(5) of the Act stipulates that a tenant may dispute a notice issued under Section 49 by submitting an Application for Dispute Resolution within 15 days of receiving the notice. Section 49(6) states that if the tenant does not submit an Application for Dispute Resolution within 15 days the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit.

As per the tenants' testimony I find the tenants did not submit an Application for Dispute Resolution seeking to cancel the 2 Month Notices in accordance with Section 49(5) and as such, I find the tenants are conclusively presumed to have accepted that the tenancy ends as per the notice, pursuant to Section 49(6).

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$50.00** comprised of the fee paid by the landlord for this application.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 *Residential Tenancy Act*.

Dated: October 05, 2015

Residential Tenancy Branch

