



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by personal delivery on June 7, 2016. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the absence of the Tenants.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on September 1, 2014 as a 1 year fixed term tenancy and then continued on a month to month basis. Rent is \$1,500.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$750.00 at the start of the tenancy.

The Landlord said he issued a 2 Month Notice to End Tenancy for Landlord's Use of the Property as the Landlord is moving into the unit. The Landlord said the Tenants have not moved out and the Tenants have not disputed the Notice to End Tenancy so the Landlord requested an Order of Possession to end the tenancy.

Further the Landlord said he would make another application for unpaid rent and to retain the Tenants' security deposit.

Analysis

Section 49 of the Act states:

- (8) A tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice.

(9) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (8), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

The Tenants have not disputed the Notice to End Tenancy **within 15 days of receiving** a Notice to End Tenancy for Landlord's Use of the Property. As the Tenants failed to do this, then under section 49 of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the day it was served, or on June 7, 2016. Consequently, the Tenant would have had to apply to dispute the Notice by June 22, 2016.

I find that the Tenant has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that as the Landlord was successful in this matter he is entitled to recover the filing fee of \$100.00 for this proceeding from the Tenant. I order the Landlord to retain \$100.00 from the Tenants' security deposit as full payment of the filing fee for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenants have been issued to the Landlord. A copy of the Order must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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 11, 2016

Residential Tenancy Branch