



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPL FF

Introduction

This hearing was convened in response to an application by the landlord for an Order of Possession in relation to an undisputed Two Month Notice to End Tenancy for Landlord's Use of Property (the Notice) dated June 07 2016 with an effective date of August 31 2016. The landlord further requests recovery of the filing fee.

I accept the landlord's evidence that despite the tenant having been personally served with the application for dispute resolution and notice of hearing on June 25, 2016 in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord was given full opportunity to be heard, to present evidence and to make submissions. The landlord testified they provided all of the limited evidence provided to this hearing to the tenant, consisting of the Notice to End and a witness statement that the landlord was seen serving the tenant with the notice of Hearing.

Issue(s) to be Decided

Is the Notice to End Tenancy valid in compliance with Section 52 of the Act?

Is the Landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The following is relevant and undisputed. The tenancy began in 2013. Rent in the

amount of \$810.00 is payable in advance of each month. The landlord does not hold a security deposit. The landlord testified that on June 07, 2016 they personally served the Tenant with a 2 Month Notice to End Tenancy for Landlord's Use (the "Notice") containing an effective date of August 31, 2016. The landlord has not been served with notice the tenant has filed to dispute the notice to date: within the legislated time to do so. The landlord testified they have done what is required of them in accordance with the Act and seek an Order of Possession pursuant to an undisputed Notice to End and Section 55 of the Act to lend some certainty to the tenancy end.

Analysis

I find **Section 49** of the Act requires that upon receipt of a Notice to End Tenancy for Landlord's Use of Property, the tenant has the right, within fifteen (15) days of receiving the notice, to dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the Notice, the tenant is conclusively presumed by the Act to have accepted that the tenancy ends on the effective date of the Notice *and must* vacate the unit by that date.

I find the landlord served the tenant with their 2 Month Notice to End on June 07, 2016 with an effective date of August 31, 2016 and I find the Notice is in compliance with Section 49 and Section 52 of the Act, and *is valid*.

Section 55(2)(b) of the Act provides that a landlord may request an Order of Possession of a rental unit by making an application for dispute resolution where a Notice to End the tenancy has been given by the landlord, and the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

Based on the evidence I find that the tenant was served in accordance with the Act with a valid Notice to End. The tenant did not and has not disputed the Notice in accordance with the Act and has not moved out of the unit. As a result, I find the Landlord is entitled to an Order of Possession for the effective date of the Notice.

As the landlord has made this application for their convenience I decline to award the landlord their filing fee.

Conclusion

I grant an Order of Possession to the Landlord **effective August 31, 2016**. The tenant must be served with this Order of Possession, If necessary, should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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 13, 2016

Residential Tenancy Branch