



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This was a hearing with respect to the landlord's application for an order of possession. The hearing was conducted by conference call. The landlord's agent called in and participated in the hearing. The agent is the daughter of the landlord. The tenant did not attend although he was served with the application and Notice of Hearing by registered mail sent on June 24, 2016. Canada Post records supplied by the applicant confirm that the tenant received and signed for the registered mail on June 27, 2016.

Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to a two month Notice to End Tenancy for landlord's use dated April 28, 2016?

Background and Evidence

The rental unit is one unit in a duplex residence in Abbotsford. The tenant occupies the unit pursuant to a verbal tenancy agreement made with the agent of the former owner of the rental property. The tenancy began several years ago. The agent who made the tenancy agreement is the son of the former owner and the brother of the current owner. The monthly rent is \$700.00. The applicant inherited the rental property in September, 2015 upon the death of her mother, the owner of the property. The tenant continued to occupy upon the same terms after the applicant became the owner.

The landlord served the tenant with a two month Notice to End Tenancy for landlord's use of property. The Notice to End Tenancy was dated April 28, 2016 and it required the tenant to move out of the rental unit by June 30, 2016. The reason for the Notice to End Tenancy was that the landlord has all the necessary permits required to renovate or repair the rental unit in a manner that requires it to be vacant. The Notice to End Tenancy was sent to the tenant by mail. According to Canada Post records provided by the landlord it was mailed on April 28, 2016 and delivered to the tenant on May 2, 2016.

The tenant has not applied to dispute the Notice to End Tenancy.

The landlord's agent testified that since the tenant was served with the application for dispute resolution and Notice of Hearing, he has stopped paying rent and has refused to move out of the rental unit. The landlord's agent testified that the landlord and her contractors have been prevented and delayed in carrying out work to the rental property by the tenant's refusal to vacate pursuant to the Notice to End Tenancy.

Analysis

Section 49 (8) of the *Residential Tenancy Act* provides that a tenant may dispute a Notice to End Tenancy for landlord's use by making an application for dispute resolution within 15 days after the date he receives the Notice. If he does not file an application within the time provided, he is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and he must move out of the rental unit by that date.

I accept the landlord's evidence that the tenant was served with the Notice to End Tenancy by mail sent on April 28, 2016. The Notice was delivered to the tenant on May 2, 2016. The tenant did not apply to cancel the Notice to End Tenancy and he is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, which was June 30, 2016.

The Notice to End Tenancy given by the landlord was in the proper form as required by the *Act*. The tenant has not disputed the Notice and has not vacated the rental unit although the effective date of the Notice to End Tenancy has passed. I find that the landlord is entitled to an order for possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that court.

Conclusion

The landlord's application has been allowed and an order of possession granted.

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 04, 2016

Residential Tenancy Branch

