



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL O

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 26, 2016 with an effective date of September 01, 2016. Both the landlord and the tenant participated in the hearing. Both parties were given opportunity to be heard and each participated with their testimony.

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?

Background and Evidence

The following is relevant and undisputed by the parties. The parties agreed that on June 27, 2016 the tenant received from the landlord a 2 Month Notice to End Tenancy for Landlord's Use (the "Notice"). The Tenant did not file an application to dispute the Notice within the legislated time to do so. The parties agreed with the tenant's testimony the tenant now has moved out of the rental unit and removed their personal belongings, but that belongings of a non-tenant and non-occupant of the residential property remain. The landlord did not authorize their presence on the property. The tenant claims they did not authorize their presence on the property but is attempting to have the purported owner remove them.

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.

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. I find the Landlord is entitled to an Order of Possession.

In this matter the landlord and tenant each did what they were required to do and effectively the tenant has vacated in accordance with the landlord's notice and received their due compensation in respect to the Notice. Effectively, as the tenancy has ended the landlord has now regained possession of the rental unit and having de facto possession, an Order of Possession is not required. None the less, on reflection of the evidence I find it reasonable to perfect the circumstances between the parties and grant the landlord their entitlement under the Act in this matter. As the effective date of the Notice has past, the landlord is entitled to an immediate **Order of Possession**.

Conclusion

I grant an Order of Possession to the Landlord **effective 2 days from the day the tenant is served the Order**. If the landlord seeks or needs to enforce the Order the tenant must be served with this Order of Possession and it 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: September 12, 2016

Residential Tenancy Branch

