



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for landlord's own use pursuant to section 55 of the *Act*.

While the landlords and the landlord's agent, GJ, attended the hearing by way of conference call, the tenant did not. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply

The landlord's agent testified that the tenant was personally served with the landlord's application for dispute resolution hearing package and evidence on July 6, 2017. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with the landlord's application and evidence on July 6, 2017.

The landlord's agent testified that the tenant was served with the landlord's 2 Month Notice to End Tenancy for Landlord's Own Use, dated April 27, 2017 ("2 Month Notice"), on April 27, 2017, by way of posting to the rental unit door. In accordance with sections 88 and 90 of the *Act*, I find the tenant deemed served with the landlord's 2 Month Notice on April 30, 2017, three days after its posting.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for landlord's own use pursuant to section 55 of the *Act*?

Background and Evidence

The landlord's agent, GJ, testified regarding the following facts. The tenant is on a month-to-month tenancy with monthly rent in the amount of \$600.00 payable on the first day of each month. The landlord holds a security deposit in the amount of \$300.00 for this tenancy. The tenant continues to reside in the rental unit.

The landlord issued the 2 Month Notice, with an effective move-out date of July 1, 2017 for the following reason:

- The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

The landlord provided the following background for why they had decided to issue the 2 Month Notice. They testified that the 2 Month Notice was issued as the landlord's parents wanted to occupy the suite. The landlord's mother and father currently reside at another family member's house after arriving here from India, and are awaiting the tenant to vacate the 1 bedroom suite, which is close to the landlord's own home.

Analysis

The landlord's agent, GJ, provided undisputed evidence at this hearing, as the tenant did not attend. Section 49 of the *Act* provides that upon receipt of a notice to end tenancy for landlord's own use, the tenant may, within fifteen days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file his application for dispute resolution within the fifteen days of service granted under section 49(8) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 49(9) of the *Act* to have accepted that the tenancy ended on the effective date of the 2 Month Notice, July 1, 2017.

As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*. I find that the landlord's 2 Month Notice complies with section 52 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant(s)**. Should the tenant(s) or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of 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: September 18, 2017

Residential Tenancy Branch