



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 an application by the landlord pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for Landlord's Use pursuant to section 55.

The tenant did not attend although the teleconference remained open until 9:51 a.m. The landlords were both given full opportunity to be heard, to present evidence and to make submissions regarding their application. The landlord provided evidence that a 2 Month Notice to End Tenancy for Landlord's Use was served to the tenant on July 2, 2017 both by posting the Notice on the door and by sending it via registered mail. The landlords gave sworn testimony and documentary evidence to prove service to the tenant with their Application for Dispute Resolution hearing package on October 7, 2017 via registered mail.

The landlords (landlord TL) were able to provide and confirm the tracking information from Canada Post with respect to both mailings to the tenant. I accept the testimony of Landlord TL as well as the supporting documentary evidence as proof that the tenant was deemed served with the 2 Month Notice to End Tenancy for Landlord's Use ("2 Month Notice") and with the landlord's Application for Dispute Resolution hearing package identifying their intention to seek an Order of Possession for the rental unit on July 7, 2017 and October 12, 2017 respectively.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for Landlord's Use?

Background and Evidence

The landlord gave evidence that the residential tenancy agreement began on January 1, 2015. The rental amount for this unit was established at \$575.00 but has now increased to \$590.00 per month. Landlord TL testified that the tenants continued to hold the \$287.50 security deposit paid by the tenant on December 30, 2014.

The landlord has applied for an Order of Possession for Landlord's Use based on their issuance of a 2 Month Notice to End Tenancy. They testified that they intend to have a family member

reside in the rental unit, as indicated in their Notice to End Tenancy. The landlords both testified that the tenant is still residing in the rental unit.

The landlord testified that the tenant did not respond with an application to cancel the Notice to End Tenancy after it was issued. There is no evidence that the tenant has filed an application to cancel the landlords' Notice to End Tenancy. The landlord has now applied and seeks an Order of Possession.

Analysis

The tenant has not made application pursuant to section 49(8) of the *Act* within fifteen days of receiving the 2 Month Notice to End Tenancy for Landlord's Use of Property. In accordance with section 49(9) of the *Act*, the tenant's failure to take this action within fifteen days led to the end of her tenancy on as of the effective date of the notice and required her to vacate the rental premises by the effective date. As the landlords both testified that the tenant continues to reside in the rental unit, I find that the landlords are entitled to an Order of Possession for the rental unit.

Conclusion

I grant the landlords an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order 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: January 08, 2018

Residential Tenancy Branch