



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HomeLife Glenayre Realty Chilliwack Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPL, MNRL-S, FFL

Introduction

This hearing dealt with applications from the landlord pursuant to the *Residential Tenancy Act* (the *Act*).

The landlord applies for:

- An Order of Possession for landlord's use of property pursuant to Sections 49 and 55;
- A Monetary Order for unpaid rent pursuant to Section 67;
- An order to retain the security deposit, pursuant to Section 72; and
- Authorization to recover the filing fee for this application from the tenants pursuant to Section 72.

The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenants did not attend this hearing, although I left the teleconference hearing connection open for ten minutes to enable the tenant to call into this hearing scheduled for 1:30 PM. I confirmed the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system the landlord and I were the only ones who had called into this teleconference.

The landlord testified the Notice of Hearing and the landlord's documents were served on each tenant on April 26, 2018 by registered mail. The landlord provided copies of the Canada Post Customer Receipts containing the tracking numbers. I find the tenants are deemed served with the documents on May 1, 2018, the 5th day after mailing, pursuant to Section 90 of the Act.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for landlord's use?
2. Is the landlord entitled to a Monetary Order for unpaid rent?
3. Is the landlord entitled to recover the filing fee for this application from the tenants?
4. Is the landlord entitled to retain the security deposit?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This tenancy began in February 8, 2013. The current rent is \$650.00 payable on the first of the month. A security deposit of \$325.00 was paid by the tenants at the start of the tenancy and is still held by the landlord.

The landlord testified the Two Month Notice to End Tenancy for Landlord's Use (the "Two Month Notice") dated January 29, 2018, citing the landlord has all the necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in manner that requires the rental unit to be vacant, was personally served on the tenants on that date with an effective date of March 31, 2018.

The landlord testified the tenants did not file an application to dispute the Two Month Notice. The landlord testified the tenants did not pay rent for the months of April or May 2018 and continue to reside in the premises.

Analysis

The landlord provided undisputed evidence at this hearing as the tenants did not attend. I find that the tenants were duly served with the Two Month Notice on January 29, 2018. I accept the landlord's evidence that the tenant did not dispute the Two Month Notice within 15 days.

I am satisfied the form and content of the landlord's Two Month Notice complies with Section 52 of the *Act* and was served in accordance with Section 88 of the *Act*.

Accordingly, I find that the tenants are conclusively presumed under Section 49(9) of the *Act* to have accepted that the tenancy ended on the effective date of the Two Month Notice, March 31, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to Section 55 of the *Act*. As the effective date of the Two Month Notice has passed, I issue a 2-day Order of Possession.

The landlord testified that the tenants continue to reside in the premises and rent for the months of April and May 2018 is unpaid. I therefore grant a Monetary Award to the landlord in the amount of two months' rent being a total of \$1,300.00

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with the offsetting provisions of Section 72 of the *Act*, I allow the landlord to retain \$325.00 of the tenants' security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective 2 days after service on the tenants. Should the tenants 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.

I grant the landlord a Monetary Order in the amount of \$1,075.00, being \$1,400 for unpaid rent and reimbursement of the filing fee, less \$325.00 for the security deposit. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: May 24, 2018

Residential Tenancy Branch