



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR OPL MNR FF CNL CNR

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- an order of possession for landlord’s use of property pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover the filing fee for this application pursuant to section 72.

Tenant:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord’s 2 Month Notice to End Tenancy for Landlord’s Use of Property (the 2 Month Notice) pursuant to section 49;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the applications and evidence on file.

The landlord withdrew the application for the monetary portion of this application so the only outstanding issues were the two Notices to End Tenancy.

Issues

Is the landlord entitled to an order of possession or should the 10 Day Notice and the 2 Month Notice be cancelled?

Background and Evidence

The tenancy began on June 1, 2017 with a monthly rent of \$337.50 payable on the 1st day of each month. The rental unit is a one bedroom condo. No security deposit was collected at the start of the tenancy.

The tenant acknowledged receipt of the 2 Month Notice on July 23, 2018. The 2 Month Notice has an effective date of September 30, 2018. The tenant also subsequently received a 10 Day Notice on August 2, 2018. The tenant filed an application to dispute both the above Notices on August 7, 2018.

In regards to the 2 Month Notice, the landlord testified that he has moved back to Nanaimo from out of province as of the date the Notice was served to the tenant. The landlord testified that he recently got new employment in Nanaimo. The landlord testified that he is currently living at his sister's place in Nanaimo and sleeping on the floor.

At the outset of the hearing, the tenant advised that he was not disputing the 2 Month Notice and only the 10 Day Notice. After being explained the consequences of not disputing the landlord's 2 Month Notice, the tenant advised that he was disputing both. The tenant testified that he was disputing the 2 Month Notice on the grounds of good faith. The tenant again stated that he was not going to dispute this Notice but only did so because of subsequently being served the 10 Day Notice. The tenant testified that the landlord was not acting in good faith as the landlord did not want to resolve a bed bug issue he reported.

Analysis

I am satisfied that the tenant was served with the 2 Month Notice on July 23, 2018. I find the 2 Month Notice complies with the form and content requirements of section 52 of the Act.

Section 49 of the Act contains provisions by which a landlord may end a tenancy for landlord's use of property by giving notice to end tenancy. Pursuant to section 49(8) of the Act, a tenant may dispute a Two Month Notice by making an application for dispute resolution within fifteen days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the Two Month Notice.

Further, Two Month Notices have a good faith requirement. *Residential Tenancy Policy Guideline #2* "Good Faith Requirement when Ending a Tenancy" provides the following guidance:

A claim of good faith requires honesty of intention with no ulterior motive. The landlord must honestly intend to use the rental unit for the purposes stated on the Notice to End the Tenancy.

If the good faith intent of the landlord is called into question, the burden is on the landlord to establish that they truly intend to do what they said on the Notice to End Tenancy. The landlord must also establish that they do not have another purpose that negates the honesty of intent or demonstrate they do not have an ulterior motive for ending the tenancy.

I accept the landlord's testimony that he intends in good faith to move into the rental unit as he has just recently moved to Nanaimo for work purposes. The tenant did not submit any testimony or evidence to contradict the landlord's testimony. Rather, the tenant's own submission in the hearing appeared to be that he was not really disputing the landlord's intention to move into the rental unit. I find the landlord does not have an ulterior motive for ending this tenancy. I find the tenant's reporting of a bed bug issue is in this case not on its own sufficient to call the landlord's good faith intent into question.

I find that the landlord has provided sufficient evidence to justify that it had a good faith intention to issue the 2 Month Notice. The tenant's application to cancel the 2 Month Notice is dismissed and the landlord is entitled to an Order of Possession pursuant to section 55 of the Act, effective September 20, 2018.

As the tenancy is ending September 30, 2018 pursuant to the 2 Month Notice issued on July 23, 2018, I find it not necessary to consider the merits of the 10 Day Notice.

Conclusion

I grant an Order of Possession to the landlord effective **1:00 p.m. on September 30, 2018**. Should the tenant(s) 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 25, 2018

Residential Tenancy Branch