



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDCL MNDL MNRL OPC OPR

Introduction

The landlord filed an application for dispute resolution on August 17, 2018, pursuant to section 59 of the *Residential Tenancy Act* (the “Act”). The landlord seeks the following relief under sections 67 and 72 (1) of the Act:

1. an order of possession for cause;
2. an order of possession for unpaid rent;
3. a monetary order for unpaid rent;
4. a monetary order for various damages and compensation; and,
5. a monetary order for recovery of the filing fee.

This is my decision in respect of the landlord’s application.

The landlord attended the hearing before me, was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenants did not attend.

The landlord testified that he served the tenants with the Notice of Dispute Resolution Proceeding package by Canada Post registered mail on August 20, 2018. I find that the tenants were served with the Notice of Dispute Resolution Proceeding package in compliance with section 89(1)(c) of the Act.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application is considered in my decision.

Preliminary Issue: Monetary Claims

The landlord advised that the tenants have paid rent and are no longer in arrears. He has issued a “use and occupancy only” receipt as a result, but still seeks an order of possession. In reviewing the landlord’s application, it appeared that the monetary claims for purported damage to the rental unit are premature, in that the landlord has not yet had an opportunity to fully inspect the rental unit and the full extent of any damage. As such, he was unable to submit any evidence such as receipts in support of the amounts claimed. I advised him that he will be in a better position to assess the damage once the tenants have vacated, and that he may wish to file a new application at that point.

Given the above, and as I explained to the landlord during the hearing, I dismiss the following claims with leave to reapply:

1. an order of possession for unpaid rent;
2. a monetary order for unpaid rent; and,
3. a monetary order for various damages and compensation.

Issues to be Decided

1. Is the landlord entitled to an order of possession for cause?
2. Is the landlord entitled to a monetary order for recovery of the filing fee?

Background and Evidence

The landlord testified that one of the tenants (C.) moved in approximately six years ago, and the co-tenant (R.) moved in on April 1, 2018. There is no written tenancy agreement, but the monthly rent is \$840.00 and is due on the first of the month. The tenants have not paid a security deposit.

On August 1, 2018, the landlord served the tenants with a One Month Notice to End Tenancy for Cause. The landlord’s wife served the tenant (R.) on August 1 at 5:00 pm, in-person. The effective date of end of tenancy on the Notice was September 1, 2018.

Analysis

Section 47 (1) of the Act permits a landlord to issue a One Month Notice to End Tenancy for Cause. Further, a notice under this section must comply with section

52 *[form and content of notice to end tenancy]*. A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice. Finally, section 47 (5) of the Act states that “If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and (b) must vacate the rental unit by that date.”

The landlord testified that he issued a One Month Notice to End Tenancy for Cause (the “Notice”) and submitted a copy of the Notice into evidence. Having reviewed the Notice, I find that it complies with section 52 of the Act. There is no evidence to suggest or for me to find that the tenants made an application for dispute resolution in accordance within 10 days after they received the Notice. As such, the tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice.

Conclusion

I hereby grant the landlord an order of possession, which must be served on the tenants and is effective at 1:00 p.m. on October 1, 2018. This order may be filed in the Supreme Court of British Columbia and enforced as a judgment or an order of that court.

I hereby grant the landlord a monetary order in the amount of \$100.00, which must be served on the tenants. The order may be filed in the Provincial Court of British Columbia and enforced as a judgment or 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 Act.

Dated: September 27, 2018

Residential Tenancy Branch