



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TINKER REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPL -4M

Introduction

This hearing was convened in response to an application by the landlord for an Order of Possession in relation to an undisputed Four Month Notice to End Tenancy for Landlord's Use of Property (the Notice) dated June 29 2018 with an effective date of October 31, 2018.

I accept the landlord's evidence that despite the tenant having been personally served with the application for dispute resolution and notice of hearing on November 23, 2018 in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord was given full opportunity to be heard, to present evidence and to make submissions. The landlord testified they provided all of the evidence provided to this hearing to the tenant.

Issue(s) to be Decided

Is the Notice to End Tenancy valid in compliance with Section 52 of the Act?

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The following is relevant and undisputed. The landlord testified that on June 29, 2018 they personally served the Tenant with a 4 Month Notice to End Tenancy for Landlord's Use (the "Notice") containing an effective date of October 31, 2018. The landlord has not been served with notice the tenant has filed to dispute the notice to date: within the legislated time to do so. The landlord testified they have done what is required of them in accordance with the Act and seek an Order of Possession pursuant to an undisputed Notice to End and Section 55 of the Act to lend some certainty to the tenancy end as the effective date of the Notice to end has passed.

Analysis

In this matter I find **Section 49** of the Act requires that upon receipt of a Notice to End Tenancy for Landlord's Use of Property, the tenant has the right, within thirty (30) days of receiving the notice, to dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the Notice, the tenant is conclusively presumed by the Act to have accepted that the tenancy ends on the effective date of the Notice *and must* vacate the unit by that date.

I find the landlord served the tenant with the 4 Month Notice to End on June 29, 2018 with an effective date of October 31, 2018 and I find the Notice is in compliance with the requirements of Section 49 and as prescribed within Section 52 of the Act, and *is therefore valid* and effective.

Section 55(2)(b) of the Act provides that a landlord may request an Order of Possession of a rental unit by making an application for dispute resolution where a Notice to End the tenancy has been given by the landlord, and the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

Based on the evidence I find that the tenant was served in accordance with the Act with a valid Notice to End. The tenant did not and has not disputed the Notice in accordance with the Act and has not moved out of the unit by its effective date, which has lapsed. As a result, I find the Landlord is entitled to an immediate Order of Possession effective 2 days from the day it is served on the tenant. It must be noted that the landlord has some discretion as to when they serve the notice, however if they seek to rely on it they must serve it upon the tenant.

Conclusion

I grant an Order of Possession to the Landlord **effective 2 days from the day it is served on the tenant**. The tenant must be served with this Order of Possession, If necessary, should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding.

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, 2019

Residential Tenancy Branch