



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Stave Falls Holdings Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPL-4M, FFL

Introduction

The landlord seeks an order of possession pursuant to section 55(2)(b) of the *Residential Tenancy Act* (the “Act”).

The landlord applied for dispute resolution on March 8, 2019 and a dispute resolution hearing was held on April 29, 2019. The landlord’s agents attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

I confirmed that the Notice of Dispute Resolution Proceeding package (“package”) was served on the tenants by registered mail on March 8, 2019 and received by the tenants on March 11, 2019. A copy of the registered mail tracking number was submitted into evidence. I conclude that the landlord served the package in compliance with section 89 of the Act.

I have reviewed evidence submitted that met the *Rules of Procedure* and to which I was referred, but only evidence relevant to the issues of this application are considered.

Issues to be Decided

1. Is the landlord entitled to an order of possession pursuant to section 55(2)(b) of the Act?
2. Is the landlord entitled to recovery of the filing fee in the amount of \$100.00, pursuant to section 72(1) of the Act?

Background and Evidence

The landlord submitted into evidence a copy of a written tenancy agreement for a tenancy that started April 22, 2017. Monthly rent is \$1,000.00. The tenants did not pay any security or pet damage deposit.

The landlord's agent testified that the house is to be demolished and that it needs to be vacant for that to happen. Also submitted into evidence is a copy of a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit (the "Notice") which was served in-person on the tenants on October 21, 2018. The effective end of tenancy date was February 28, 2019. The landlord confirmed service and submitted a Proof of Service document in support of his testimony.

The landlord inquired as to whether he could pursue unpaid rent in this application. I explained that I would be unable to amend the application to include a claim for unpaid rent, but that he was certainly at liberty to do so by way of a separate application. And, that he would be entitled to seek recovery of the \$100.00 filing fee for that application.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

The landlord seeks an order of possession on a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit that was issued and served on October 21, 2018.

Section 55(2)(b) of the Act states that

A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution: [. . .]

a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired

In addition, section 55(4)(a) of the Act states that

In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process [. . .] grant an order of possession [. . .]

In this case, the Notice was given by the landlord on October 21, 2018, the tenants have not disputed the Notice by making an application for dispute resolution, and, the time for making that application has long since expired.

Taking into consideration all the oral and documentary evidence, and applying the law to the facts, I find on a balance of probabilities that the landlord has proven their claim for an order of possession under section 55(2)(b) of the Act. An order of possession is granted pursuant to section 55(4) of the Act.

As the landlord was successful in their claim I award \$100.00 for recovery of the filing fee, pursuant to section 72(1) of the Act.

Conclusion

I grant the landlord an order of possession, which must be served on the tenants and is effective 48 hours from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

I 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, and enforced as an order of, the Provincial Court of British Columbia (Small Claim).

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: April 29, 2019

Residential Tenancy Branch