



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL-4M, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on March 4, 2019 (the "Application"). The Landlord applied for an order of possession in relation to a Four Month Notice to End Tenancy for Landlord's Use dated February 1, 2019 (the "Four Month Notice"), pursuant to the *Residential Tenancy Act* (the "*Act*").

The hearing was scheduled for 9:30pm on April 18, 2019 as a teleconference hearing. B.H. appeared on behalf of the Landlord and provided affirmed testimony. No one appeared for the Tenants. The conference call line remained open and was monitored for 11 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that B.H. and I were the only persons who had called into this teleconference.

B.H. testified that the Application and documentary evidence packages were served to the Tenants by registered mail on March 5, 2019. B.H. provided the registered mail tracking information in support. Based on the oral and written submissions, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenants are deemed to have been served with the Application and documentary evidence on March 10, 2019, the fifth day after their registered mailings.

B.H. was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession in relation to the Four Month Notice dated February 1, 2019, pursuant to Section 49 and 55 of the *Act*?

Background and Evidence

B.H. testified that the tenancy began on February 1, 2012. Rent in the amount of \$785.00 is due to the Landlord on the first day of each month. The Tenants paid a security deposit in the amount of \$435.00 which the Landlord continues to hold.

B.H. testified that the Landlord served the Tenants in person with the Four Month Notice on February 1, 2019 with an effective vacancy date of June 30, 2019. The Landlord submitted a witnessed proof of service in support. The Landlord's reason for ending the tenancy on the Four Month Notice is to;

“demolish the rental unit.”

B.H testified that the Landlord intends on demolishing 24 townhouses, including the Tenants' rental unit. B.H. testified that the Landlord has obtained all permits required by law to do this work.

B.H testified that the Landlord has provided the Tenants with 10 different housing options to move into, to help ease the impact of the eviction. B.H stated that on two occasions, the Tenants had accepted the offer to a new rental unit; however at the last minute, decided otherwise. B.H. stated that he is unsure if the Tenants are intending to comply with the Four Month Notice; therefore, the Landlord is requesting an order of possession effective June 30, 2019. If successful, the Landlord is also seeking the return of the \$100.00 filing fee paid for the Application.

Analysis

Based on the uncontested documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 49(6) of the Act states that a Landlord may end a tenancy if the Landlord has all the necessary permits and approvals required by law and intends, in good faith, to demolish the rental unit in a manner that requires the rental unit to be vacant.

The Landlord served the Tenants with the Four Month Notice in person on February 1, 2019 with an effective vacancy date of June 30, 2019. I find that the Tenants are deemed to have received the Four Month Notice on February 1, 2019, in accordance with Sections 89 and 90 of the Act.

Section 49(8) of the Act states that a Tenant may dispute a Notice by making an Application for Dispute Resolution within 30 days after the date the Tenant receives the Notice.

Section 49(9) of the Act states that if a Tenant who has received a Notice does not make an Application for Dispute Resolution in accordance with Subsection (8), the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date.

As I have found that the Four Month Notice was deemed served to the Tenants on February 1, 2019 and that there is no evidence before me that the Tenants applied for Dispute Resolution within 30 days or applied for more time to cancel the Notice, I find that the Tenants are conclusively presumed to have accepted the end of their tenancy on June 30, 2019.

Section 52 of the Act requires that any Notice to End Tenancy issued by a Landlord must be signed and dated by the Landlord; give the address of the rental unit; state the effective date, state the grounds for ending the tenancy; and be in the approved form. I find the Four Month Notice, issued by the Landlord on February 1, 2019 complies with the requirements set out in Section 52.

In light of the above, I find that the Landlord has established an entitlement to an order of possession in relation to the Four Month Notice dated February 1, 2019. As such, I grant the Landlord an order of possession in accordance with Section 55 of the Act, effective at 1:00 PM on June 30, 2019.

Having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. I also find it appropriate in the circumstances to order that the Landlord retain \$100.00 from the Tenant's security deposit held in satisfaction of the claim.

Conclusion

Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective at 1:00 P.M. on June 30, 2019. This Order should be served to the Tenants as soon as possible. Should the Tenants 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: April 18, 2019

Residential Tenancy Branch