



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act, (the “Act”), for an order of possession based on a notice to end tenancy for landlord’s use of property.

The landlords attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlords testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on April 4, 2019. The landlords stated the package was returned because the tenant refused service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act. Refusal to pick up the package does not override the deemed service provision under the Act.

The landlords appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issues to be Decided

Are the landlords entitled to an order of possession?

Background Evidence and Analysis

Based on the testimony of the landlords, I find that the tenant was served with a notice to end tenancy.

However, I find that the landlords have not met the statutory requirements under the Act to end the tenancy.

In this case, the notice to end tenancy for landlord's use of property was not in the approved form as required by section 49 and 52 of the Act. The notice to end tenancy filed in evidence is extremely old, dated October 2000. That notice to end tenancy is no longer valid, as it does not provide the required information to the tenant.

I find the landlords have not met the statutory requirements to end the tenancy. Therefore, I dismiss the landlords' application for an order of possession. Since the landlords were not successful with their application, I find the landlords are not entitled to recover the filing fee from the tenant.

The landlords are at liberty to issue a new notice to end tenancy. The landlords are to ensure that the notice is a current version. More information can be found at gov.bc.ca/landlordtenant

Conclusion

The landlords did not meet the statutory requirements to end the tenancy. The landlord's application is dismissed.

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: May 16, 2019

Residential Tenancy Branch