



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice") pursuant to section 49.

The landlord, B.C. attended the hearing. The landlord had full opportunity to provide affirmed testimony, present evidence, and make submissions.

The tenant did not attend the hearing. I kept the teleconference line open for the duration of the hearing to allow the tenant the opportunity to call. Furthermore, I waited from the scheduled started time of 9:30 to 9:40 a.m. before proceeding with the hearing to allow the tenant the opportunity to call.

The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code was provided to the tenant.

Preliminary Matter – Non-Appearance of Tenant at the Hearing

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party or dismiss the application with or without leave to reapply.

As the applicant tenant did not attend the hearing, and in the absence of any evidence or submissions, I order the tenant's application be dismissed without leave to re-file.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession pursuant to section 55 of the Act?

Background and Evidence

The landlord testified that the tenancy started in 2013. The monthly rent was \$800.00 and the landlord held a \$400.00 security deposit.

The landlord testified that they issued and personally served the Two Month Notice on April 30, 2019. The notice had a move out date of June 30, 2019. The stated reason for the notice to end tenancy was that the landlords intended to move close family members into the rental unit. The landlord testified that the notice was accurate and that they do intend to move close family members into the rental unit.

The landlord testified that the tenant has decided to vacate the rental unit. The landlord testified that they have provided the tenant with a free month of rent for June 2019.

Analysis

The tenant has made an application to cancel the landlords' Two Month Notice and that application has been dismissed. Section 55 of the *Act* states that when a tenant's application to cancel a notice to end tenancy for cause is dismissed, I must grant the landlord an order of possession if the landlord has issued a notice to end tenancy in compliance with the *Act*. I find the form and content of the Two Month Notice does comply with section 52 of the *Act*.

Furthermore, section 49(3) of the *Act* permits a landlord to end a tenancy if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit. I accept the landlord's undisputed testimony that they intend to move a close family member into the rental unit.

Accordingly, I find the landlord is entitled to an order of possession effective at 1:00 p.m. on June 30, 2019.

Conclusion

I order the tenant's application be dismissed without leave to reapply.

I find the landlords are entitled to an order of possession effective at **1:00 p.m. on June 30, 2019**. This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia and be enforced as 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 *Residential Tenancy Act*.

Dated: June 25, 2019

Residential Tenancy Branch