



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AFFORDABLE HOUSING CHARITABLE
ASSOCIATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **FFL OPQ**

Introduction

This is an application by the landlord pursuant to the *Residential Tenancy Act* (“the *Act*”) for the following:

- An order for possession under a Two Month Notice - Tenant does not Qualify for Subsidized Rental Unit (“Two Month Notice”) pursuant to section 49.1;
- Reimbursement of the filing fee pursuant to section 72.

The landlord’s property manager and agent (“the landlord”) appeared at the hearing and was given the opportunity to make submissions as well as present affirmed testimony and written evidence.

The tenants did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional ten minutes to allow the tenants the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenants were provided.

The landlord provided affirmed testimony that the landlord served the tenants individually with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on May 9, 2019 and deemed received by the tenants under section 90 of the *Act* five days later, that is, on May 14, 2019.

The landlord provided the Canada Post Tracking Number in support of service upon each tenant to which I refer on the cover page. Pursuant to sections 89 and 90, I find the landlord served the tenants with the Notice of Hearing and Application for Dispute Resolution on May 14, 2019.

Issue(s) to be Decided

Is the landlord entitled to:

- An order for possession pursuant to a Two Month Notice - Tenant does not Qualify for Subsidized Rental Unit ("Two Month Notice") pursuant to section 49.1(6);
- Reimbursement of the filing fee pursuant to section 72.

Background and Evidence

The landlord testified that the parties entered into a signed residential tenancy agreement for subsidized housing commencing September 1, 2014. Rent is currently \$1,900.00 a month payable on the first of the month. The landlord submitted a copy of the agreement signed by both parties.

The landlord testified the tenants paid a security deposit at the start of the tenancy, of \$450.00 which is held by the landlord. The tenants have not provided any written authorization to the landlord to retain the deposit.

The landlord issued the Two Month Notice under section 49.1, which the landlord testified the landlord served by registered mail on March 11, 2019, thereby affecting service under section 90 on March 14, 2019; the landlord also served the document by posting to the tenants' door on March 12, 2019, thereby affecting service under section 90 on March 15, 2019. The landlord provided the tracking number for the service by registered mail which is referenced on the first page.

The landlord submitted as evidence a copy of the Two Month Notice with an effective vacancy date of May 31, 2019. The Notice states that the tenants no longer qualify for the subsidized rental unit and informs the tenants they may dispute the Notice within 15 days or must vacate on May 31, 2019.

The landlord testified the tenants did not file an Application for Dispute Resolution within 15 days and they continue to reside in the unit.

The landlord is granted a monetary order for reimbursement of the filing fee of \$100.00 and authorization to apply the security deposit to the monetary award.

The landlord requested an order of possession effective two days after service.

A summary of the landlord's award follows:

ITEM	AMOUNT
Reimbursement of filing fee – monetary award	\$100.00
(Less deposit held by landlord)	(\$450.00)
Balance Security Deposit	(\$350.00)

Analysis

I have reviewed all documentary evidence and testimony.

I find the form and content of the Two Month Notice complies with section 52 of the *Act*.

I find the tenants were served with the Notice on March 15, 2019 in accordance with sections 88 and 90 of the *Act*.

I find the tenants did not dispute the Notice within the 15-day period following service. I find the tenants did not vacate the unit on the effective date of May 31, 2019.

Therefore, pursuant to section 49.1(6), the tenants are conclusively presumed to have accepted the tenancy ends on the effective date of the notice of May 31, 2019 requiring the tenants to vacate the rental unit by that date.

As the tenants continued to occupy the unit, I find the landlord is entitled to an order of possession under section 49.1(6), effective two days after service.

Based on the uncontradicted evidence of the landlord, I find the landlord is entitled to a monetary order for reimbursement of the \$100.00 filing fee.

Further to the offsetting provisions of section 72, the landlord is entitled to apply the security deposit of \$450.00 to the monetary award.

The award is summarized as follows:

ITEM	AMOUNT
Reimbursement of filing fee - monetary award	\$100.00

(Less deposit)	(\$450.00)
Balance Security Deposit	(\$350.00)

Conclusion

I grant a monetary order to the landlord in the amount of **\$100.00**

This order must be served on the tenants. If the tenants fail to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) to be enforced as an order of that Court.

I also grant the landlord an order of possession effective two days after service on the tenants.

This order must be served on the tenants. If the tenants fail to comply with this order, the landlord may file the order with the Supreme Court of British Columbia to 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 22, 2019

Residential Tenancy Branch