



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, PSF, FF

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 49;
2. An Order for the provision of services or facilities - Section 65 Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The conference call hearing was set for 11:00 a.m. on this date. The Arbitrator called in to the hearing at the scheduled time. The line remained open while the phone system was monitored for the duration of the hearing that lasted 10 minutes. The only Party who called into the hearing during this time was the Landlord who was ready to proceed. It was confirmed that the correct call-in numbers and participant codes were provided in the Notice of Hearing to the Tenants. As the Tenants did not attend the hearing to pursue their application, I dismiss their application without leave to reapply. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

There is no written tenancy agreement. The tenancy started in 2013. Rent of \$1,075.00 is payable on the first day of each month. On October 1, 2019 the Landlord served the Tenant in person with a two month notice to end tenancy for landlord's use (the "Notice"). The Notice is on the approved form, sets out the rental unit address, is signed by the Landlord and dated October 1, 2019 and sets out that the Landlord or a close family member of the Landlord intends to occupy the unit. The Landlord confirmed all the details set out on the Notice. The Notice sets out an effective date of November 30, 2019. The Tenants are still in the unit.

Analysis

Section 49(2) of the Act provides that a landlord may end a tenancy for landlord's use by giving notice to end the tenancy effective on a date that must be

- (i) not earlier than 2 months after the date the tenant receives the notice, and
- (ii) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 53 of the Act provides that an incorrect effective date is automatically corrected. As the Landlord served the Notice on October 1, 2019 and as rent is payable on the first day of each month, I find that the effective date on the Notice of November 30, 2019 is automatically corrected to December 31, 2019.

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that in order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,

- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

As the Tenants' application has been dismissed and as the Notice complies with the Act, I find that the Landlord is entitled to an order of possession for the effective date of the Notice.

Conclusion

The Tenants' application is dismissed.

I grant an Order of Possession to the Landlord effective 1:00 p.m. on December 31, 2019. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and 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 Act.

Dated: December 06, 2019

Residential Tenancy Branch