



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

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

1. An Order of possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and all evidence (the “Materials”) by posting thee Materials on the door of the unit on October 27, 2019 in accordance with Section 89 of the Act. The Tenant subsequently sent the Landlord a text confirming receipt of the Materials. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by posting on the door, on the 3rd day after it is posted. Given the evidence of service I find that the Tenant is deemed to have received the Materials on October 30, 2019. The Landlords were 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?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The rental unit is a basement suite in a house that was purchased by the Landlords on July 18, 2019. The basement suite had an existing tenancy with the Tenant and the Landlord's do not know when that tenancy started. Rent of \$900.00 is payable on the first day of each month. No security deposit was paid by the Tenant at the onset of the tenancy. On July 26, 2019 the Landlord served the Tenant in person with a two month notice to end the tenancy for landlord's use (the "Notice"). The stated reason for the Notice is that the Landlord or a close family member of the Landlord will occupy the unit. The Notice has an effective move-out date of September 30, 2019. The Tenant has not moved out of the unit and the Landlord seeks an order of possession as soon as possible.

Analysis

Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Given the undisputed evidence that the Tenant received the Notice, did not dispute the Notice and has not moved out of the unit I find that the Landlord is entitled to an order of possession that will be effective two days after it has been served on the Tenant. As the Landlord's application has been successful, I find that the Landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

I grant an Order of Possession to the Landlord. 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.

I grant the Landlord an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court 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 02, 2019

Residential Tenancy Branch