



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- An order of possession pursuant to section 55; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served their application and evidence on the tenant by posting on the rental unit door on April 9, 2020. Based on the testimony I find that the tenant is deemed served with the landlord's materials on April 12, 2020, three days after posting, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover their filing fee from the tenant?

Background and Evidence

This periodic tenancy began over 25 years ago. The current monthly rent is \$600.00 payable on the first of each month. No security deposit was collected for this tenancy.

The landlord issued a 2 Month Notice to End Tenancy for Landlord's Use dated January 29, 2020 with an effective end of tenancy date of April 1, 2020. The reason provided on the 2 Month Notice for the tenancy to end is that:

- *All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.*

The landlord served the 2 Month Notice on January 29, 2020 by posting on the rental unit door. The landlord is not aware of the tenant filing a dispute of the notice.

The landlord submitted into documentary evidence the contract of purchase and sale for the property and the written request from the purchaser for vacant possession.

Analysis

Section 49 of the *Act* provides that upon receipt of a notice to end tenancy for landlord's use the tenant may, within 15 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

In the case at hand I find that the tenant is deemed to have received the 2 Month Notice on February 1, 2020, three days after posting on the rental unit door, in accordance with sections 88 and 90 of the *Act*. Therefore, the tenant had 15 days from February 1, 2020 to file an application for dispute resolution. I find that the tenant has failed to file an application for dispute resolution within the 15 days of service granted under section 49(8) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 49(9) of the *Act* to have accepted that the tenancy ended on the effective date of the 2 Month Notice, April 1, 2020.

The landlord's 2 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit and the effective date of the notice. I am satisfied with the evidence of the

landlord that they have received written request from the purchaser of the rental property to issue the 2 Month Notice.

The 2 Month Notice is dated January 29, 2020 and was issued prior to the *Ministerial Order M089* issued March 30, 2020 pursuant to the State of Emergency declared on March 18, 2020. Therefore, in accordance with section 3(2) of the Ministerial order and pursuant to section 55 of the *Act*, I find that the landlord is entitled to an Order of Possession. As the effective date of the 2 Month Notice has passed, I issue a 2 day Order of Possession.

As the landlord was successful in their application they are also entitled to recover their filing fee from the tenant.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$100.00. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 *Residential Tenancy Act*.

Dated: May 29, 2020

Residential Tenancy Branch