



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Top Producers Realty Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNCC, OLC, FFT, OPC, MNRL-S, MNDL-S, FFL

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on July 29, 2020 for:

1. An Order cancelling a notice to end tenancy - Section 46;
2. An Order for the Landlord’s compliance - Section 62; and
3. A Monetary Order for the recovery of the filing fee - Section 72.

The Landlord applied on July 27, 2020 for:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent or utilities - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

Both Parties appeared and each were given full opportunity to be heard, to present evidence and to make submissions.

Background and Evidence

The Tenant states that it moved out of the unit yesterday with a few items left to collect today. The Tenant states that it did not inform the Landlord of this yet as it was waiting for this hearing. The Tenant and Landlord agree that they will communicate about the return of the keys and to arrange a move-out inspection. It is noted that the Landlord’s application seeks an order of possession based on a notice to end tenancy for cause

that was given to the Tenant in February 202 while the Tenant's application to cancel a notice to end tenancy for cause was given to the Tenant in July 2020. The Landlord confirms that the notice to end tenancy from February 2020 was not in relation to the non-payment of rent. The Landlord confirms that the claim for compensation was for return of the filing fee and that the claim for return of the filing fee was also made in the application.

Preliminary Matters

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other. As the matter of unpaid rent is not related to the Landlord's claim for an order of possession, I dismiss this claim with leave to reapply.

As the Landlord's claim for compensation is in relation to the filing fee already claimed in the application, I dismiss this claim. As the tenancy had not ended at the time the Landlord's application was made, I find that the claim for retention of the security deposit was premature and I dismiss this claim with leave to reapply. As the Tenant has moved out of the unit, I dismiss its claim to cancel a notice to end tenancy. As the claim for an order for compliance is only relevant to an ongoing tenancy, I dismiss this claim. I dismiss both Parties claims for recovery of the filing fee. In effect the Tenant's application has been dismissed in its entirety.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Analysis

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.

Considering that the required form and content is contained on both of the Landlord's notices to end tenancy for cause and given the dismissal of the Tenant's application I find that the Landlord is entitled to an order of possession.

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.

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: August 31, 2020

Residential Tenancy Branch