



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, OPL, FFL

Introduction

On July 21, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting an Order of Possession for the rental unit based on a Two Month Notice to End Tenancy for Landlord’s Use of Property, dated March 4, 2020 (the “Two Month Notice”), a Monetary Order for unpaid utilities, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenants did not attend at any time during the 28-minute hearing. The Landlord testified that they served the Tenants with the Notice of Dispute Resolution Proceeding package via registered mail on July 24, 2020. The Landlord provided the tracking number and testified that the Canada Post website indicated that the package was delivered to the Tenants on July 29, 2020. I find that the Tenants have been duly served with the Notice of Dispute Resolution Proceeding in accordance with Section 89 the Act.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenants did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

Preliminary Matter

The request for a Monetary Order for unpaid utilities issue was determined as not related to the main issue in the dispute and was severed as per *Rules of Procedure 2.3 - Related Issues*.

Issues to be Decided

Should the Landlord receive an Order of Possession, in accordance with Section 55 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with Section 72 of the Act?

Background and Evidence

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The Landlord provided the following undisputed testimony and evidence:

The month-to-month tenancy began in October 2019 and Tenant KML is the only tenant currently occupying the rental unit. The rent is \$2,200.00 and is due on the first of each month. The Landlord collected a security deposit in the amount of \$1,100.00.

The Landlord sold the residential property and personally served the Tenant KML the Two Month Notice on March 4, 2020. The Notice indicated that “all of the conditions for the 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 stated that the purchaser will be moving into the rental unit and the closing date for the sale is August 28, 2020. The move-out date on the Two Month Notice was for April 30, 2020.

The Landlord stated that he provided compensation for the Tenants and returned their security deposit; however, that Tenant KML is still occupying the rental unit and has not been paying rent.

The Landlord is requesting an Order of Possession for the rental unit as the purchaser plans to move into the rental unit on August 28, 2020.

Analysis

Section 52 of the Act requires that any Notice to End Tenancy issued by a Landlord must be signed and dated by the Landlord; give the address of the rental unit; state the effective date, state the grounds for ending the tenancy; and be in the approved form.

After reviewing the Two Month Notice to End Tenancy for Landlord's Use of Property, dated March 4, 2020, I find that the Two Month Notice complies with the requirements set out in Section 52.

The Tenants have not made application pursuant to Section 49(8) of the Act within fifteen days of receiving the Two Month Notice. In accordance with Section 49(9) of the Act, the Tenants' failure to take this action within fifteen days has led to the end of this tenancy on the corrected vacancy/move-out date of May 31, 2020 and required them to vacate the rental premises by that date. As that has not occurred, I find that the Landlord is entitled to a two-day Order of Possession. The Landlord will be given a formal Order of Possession which must be served on the remaining Tenant. If the Tenant does not vacate the rental unit within the 2 days required, the Landlord may enforce this Order in the Supreme Court of British Columbia.

I find that the Landlord's Application has merit and that the Landlord is entitled to recover the cost of the filing fee for this Application for Dispute Resolution.

Conclusion

Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective two days after notice is served on the Tenant(s). Should the Tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 72(2) of the Act, I authorize the Landlord to keep \$100.00 of the Tenants security deposit as compensation for the filing fee.

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: August 26, 2020

Residential Tenancy Branch