



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The landlords applied for an order of possession for the landlord's use of property, pursuant sections 49 and 55(2)(b) of the *Act*.

I left the teleconference connection open until 10:05 A.M. to enable the tenant to call into this teleconference hearing scheduled for 9:30 A.M. The tenant did not attend the hearing. Landlord JY (the landlord) attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

I accept the landlord's testimony that the tenant was served with the application and evidence (the materials) by registered mail on July 10, 2020, in accordance with section 89(2)(b) of the *Act* (the tracking numbers are recorded on the cover of this decision).

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 mail, on the 5th day after it is mailed. Given the evidence of registered mail I find the tenant is deemed to have received the materials on July 15, 2020.

Rule of Procedure 7.3 allows a hearing to continue in the absence of the respondent.

Preliminary Issue – Update of Tenancy Address

At the outset of the hearing the landlord corrected the tenancy and tenant's addresses. Pursuant to section 64(3)(a) of the *Act*, I have amended the landlords' application.

Issue to be Decided

Are the landlords entitled to an order of possession for Landlord's use?

Background and Evidence

While I have considered the documentary evidence and the testimony of the landlord, not all details of his submission and arguments are reproduced here. The relevant and important aspects of the landlords' claim and my findings are set out below.

The landlord affirmed the tenancy started between 2010 and 2015 and there were two tenants: respondent BS and RC. In the beginning of May RC moved out and only BS has been living in the rental unit. Monthly rent is either \$540.00 or \$550.00, due on the last day of the prior month. At the outset of the tenancy the landlord collected and still holds a security deposit of \$250.00.

The landlord affirmed the Two Month Notice to End Tenancy for Landlord's Use (the Notice) was served in person on November 29, 2019. The landlord provided a proof of service form (RTB-34) in evidence.

The Notice was entered into evidence. The notice indicates the rental unit will be occupied by the landlord's close family member. The effective date of the Notice was May 01, 2020. The tenants did not dispute the Notice.

Analysis

I have reviewed all the evidence and deem the tenants received the Notice on November 29, 2019 in accordance with sections 88 (a) of the *Act*. I find the form and content of the Notice is valid pursuant to section 52 of the *Act*.

Based on the landlord's undisputed testimony I find that the tenants did not file an application to dispute the Notice within 15 days of receiving it, or at all. Pursuant to section 49(9)(a) the tenants are conclusively presumed to have accepted the end of the tenancy on May 01, 2020 and must vacate the rental unit. As this has not occurred, I

find that the tenancy ended on May 01, 2020 and pursuant to section 55(2)(b) of the Act, the landlord is entitled to an order of possession effective two days after service.

Conclusion

Pursuant to section 55(2)(b) of the Act, I grant an order of possession to the landlord effective **two days after service of this order** on the tenant. Should the tenant fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia

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 04, 2020

Residential Tenancy Branch