



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, OPR, OPC, OPL, MNRL, MNDCL, MNDL, OPB, OPM, OPN

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on August 24, 2020. The Landlord applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "*Act*").

The Landlord provided testimony at the hearing. The Tenants did not attend the hearing.

The Landlord provided registered mail tracking information to show that she sent each of the Tenant's the Notice of Hearing on July 20, 2020. Pursuant to section 89 and 90 of the Act, I find the Tenants are deemed served with this package 5 days after it was mailed, on July 25, 2020. The Landlord stated that this package included all her evidence.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Preliminary and Procedural Matters

The Landlord applied for multiple remedies under the *Act*, some of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues in this application deals with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss, with leave to reapply, all of the grounds on the Landlord's application with the exception of the following ground:

- an order of possession based on a One Month Notice to End Tenancy for Cause.

Issue to be Decided

- Is the Landlord entitled to an order of possession under the *Act*?

Background and Evidence

The Landlord testified that she served the Tenants with a One Month Notice to End Tenancy for Cause (the Notice) on July 2, 2020, by posting a copy to the front door of the rental unit. The Landlord stated that her daughter was a third party witness. A copy of this Notice was provided into evidence.

The Notice indicates several reasons for ending the tenancy. The Landlord stated that the Tenants have mostly moved out at this point, but they have been seen coming back onto the property since they left a couple weeks ago. The Landlord is seeking an order of possession, to ensure the Tenants stay off the property.

Analysis

Based on the testimony and documentary evidence, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a Landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy.

In this case, the Landlord issued the Notice for several reasons, as detailed on the Notice. Based on the Landlord's testimony, I am satisfied that the Landlord served the Tenants with the Notice, by posting it to the door of the rental unit, on July 2, 2020. The Landlord issued this Notice for cause, under section 47(1) of the *Act*. I find the Tenants are deemed to have received the Notice on July 5, 2020, 3 days after it was posted, pursuant to section 90 of the *Act*.

The Tenants had 10 days, until July 15, 2020, to dispute the Notice, but did not do so. Accordingly, pursuant to section 47(5) of the *Act*, I find the Tenants are conclusively presumed to have accepted the end of the tenancy.

The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenants.

As the Landlord's application was successful, and pursuant to section 72 of the *Act* I grant the Landlord the recovery of the cost of the filing fee in the amount of \$100.00. I award the Landlord a monetary order of \$100.00.

Conclusion

The Landlords are granted an order of possession effective **two days after service** on the Tenants. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlords may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$100.00**. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: August 24, 2020

Residential Tenancy Branch