



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PROTECTION PROPERTY MANAGEMENT REALTY LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPL, FFL, MNRL-S

Introduction

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

- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38;
- an order of possession pursuant to section 55;
- a Monetary Order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by having a witness present when he personally served both tenants on August 18, 2020. The landlord provided a proof of service document to support this claim. Based on the submissions of the landlord, I find the tenants were served in accordance to section 89 of the *Act*. Therefore, I continued in the absence of the tenants.

Preliminary and Procedural Matters

Residential Tenancy Branch Rule of Procedure 2.3 permits an arbitrator to exercise discretion to dismiss unrelated claims with or without leave to reapply. The most important issue to address is whether or not the tenancy will continue. Accordingly, I find it appropriate to exercise my discretion to dismiss all but the landlords request for an order of possession and to recover the filing fee. The landlords monetary claim is dismissed with leave to reapply. This was explained to the landlord and he indicated he understood.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to the recovery of the filing fee from the tenant for this application?

Background and Evidence

The landlord gave the following undisputed testimony. The tenancy began on July 1, 2019. The monthly rent of \$1500.00 is due on the first of each month. The tenants paid a security deposit of \$750.00 and a pet deposit of \$750.00 which the landlord still holds. The landlord issued a notice for the following reason:

Landlord's notice: landlord's use of property

49 (5) (c) the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds:

(i) the purchaser is an individual and the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit;

The landlord advised that the new owners are planning on moving in and living in the home. The landlord requests an order of possession.

Analysis

Section 49(8)(a) of the *Act* provides that a tenant who receives a notice to end tenancy for landlords use of property has 15 days to dispute the notice when the ground to end the tenancy is that the purchaser is an individual and the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit. Further, section 49(9) of the *Act* confirms that failure to dispute the notice in the required time period results in the conclusive presumption that the tenant has accepted the tenancy ends on the effective date of the notice.

I have examined the Two Month Notice to End Tenancy for Landlords Use of Property dated July 22, 2020 with an effective date of September 30, 2020 and find that it complies with section 52 of the *Act*. Therefore, I grant the landlord an order of possession pursuant to section 55 of the *Act*. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The landlord is entitled to retain \$100.00 from the security deposit in full satisfaction for the recovery of the filing fee.

Conclusion

The landlord is granted an order of possession for 1:00 p.m. on September 30, 2020. The tenancy is terminated.

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: September 11, 2020

Residential Tenancy Branch