



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 landlord applied for an order of possession under a Two Month Notice to End Tenancy for Landlord's use of property (the Notice), pursuant to sections 49 and 55 of the Act.

I left the teleconference connection open until 11:25 A.M. to enable the tenant to call into this teleconference hearing scheduled for 11:00 A.M. The tenant did not attend the hearing. The landlord and advocate BS (the landlord), attended the hearing and were 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, his advocate 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) in person on July 25, 2020, in accordance with section 89(2)(1) of the Act.

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

Issue to be Decided

Is the landlord 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 landlord's claim and my findings are set out below.

The landlord affirmed the tenancy started approximately in 2014. Monthly rent is \$900.00, due on the first day of the month. At the outset of the tenancy the landlord collected and still holds a security deposit of \$275.00.

The landlord stated the Notice was served in person on June 29, 2020. 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 (landlord or landlord's spouse). The effective date of the Notice is August 29, 2020 .The tenant did not dispute the Notice.

Analysis

I have reviewed all the evidence and find the tenant received the Notice on June 29, 2020 in accordance with section 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 tenant did not file an application to dispute the Notice within 15 days of receiving it, or at all. In accordance with section 53(2) of the Act, I correct the notice's effective date to the earliest possible date that complies with the Act. As rent is due on the first day of the month, and the Notice was served in person on June 29, 2020, pursuant to section 49(2)(a)(i) of the Act the earliest possible date the notice can be effective is August 31, 2020

Pursuant to section 49(9)(a) the tenant is conclusively presumed to have accepted the end of the tenancy on August 31, 2020 and must vacate the rental unit. In accordance with 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 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: September 01, 2020

Residential Tenancy Branch