



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

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

- an Order of Possession based on the landlords' 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 11:13 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. Landlord AT (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn 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. During the hearing, I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

As the landlord testified that they handed Tenant VS the 2 Month Notice on March 15, 2020, I find that the tenants were duly served with this Notice in accordance with section 88 of the *Act* on that day.

As the landlord testified that they handed Tenant SS a copy of the dispute resolution hearing package and written evidence on August 5, 2020, I find that the tenants were duly served with this material in accordance with sections 88 and 89 of the *Act*.

Issues(s) to be Decided

Are the landlords entitled to an Order of Possession on the basis of the 2 Month Notice?
Are the landlords entitled to recover the filing fee for this application from the tenants?

Background and Evidence

On September 1, 2018, Tenant VS and the landlords signed a month-to-month Residential Tenancy Agreement for a tenancy that began that day. Monthly rent was set at \$1,200.00, payable in advance on the first of each month. The landlord said that the tenants have not paid monthly rent for the month of September 2020.

The landlord's 2 Month Notice, seeking an end to this tenancy by June 30, 2020, entered into written evidence by the landlords, identified the following reason for seeking an end to this tenancy:

- *The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse...*

The landlord testified that their mother-in-law, the mother of Landlord BT, intends to move into the rental unit currently occupied by the tenants. The landlord testified that the tenants have not applied to cancel the 2 Month Notice.

Analysis

Section 49(8) of the *Act* provides that upon receipt of a 2 Month Notice the tenant(s) may, within fifteen days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenants have failed to file an application for dispute resolution within fifteen days of having been served with the landlords' 2 Month Notice. Accordingly, I find that the tenants are conclusively presumed under section 49 (9) of the *Act* to have accepted that the tenancy ended on the effective date of the 2 Month Notice. As they have overheld their tenancy beyond the effective date noted on the 2 Month Notice and have not attended this hearing, I find that the landlords are entitled to a 2 Day Order of Possession,

Conclusion

I allow the landlords' application and grant an Order of Possession to the landlords effective **two days after service of this Order** 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.

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 03, 2020

Residential Tenancy Branch