



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on July 30, 2020, wherein the Landlord sought an Order of Possession based on an undisputed 2 Month Notice to End Tenancy issued on July 9, 2020 (the "Notice").

The hearing of the Landlord's Application was scheduled for teleconference at 9:30 a.m. on September 4, 2020. Only the Landlord called into the hearing. The Tenants did not call into this hearing, although I left the teleconference hearing connection open until 9:44 a.m. Additionally, 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.

As the Tenants did not call in, I considered service of the Landlord's hearing package. The Landlord testified that she served the Application, her evidence and the Notice of Hearing on the Tenants by registered mail sent on August 6, 2020. A copy of the tracking number for both packages is recorded on the unpublished cover page of this my Decision.

Pursuant to section 90 of the *Residential Tenancy Act* (the "Act"), documents served by registered mail are deemed served five days later; as such, I find the Tenants were duly served with notice of this hearing as of August 11, 2020 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence

specifically referenced by the Landlord and relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter

On the Application, the Landlord inverted the Tenant, L.M.'s given and surname. Section 64(3)(c) allows me to amend an Application for Dispute Resolution; as such, I amend the Landlord's Application to correctly identify the Tenant, L.M.

Issue to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

A copy of the residential tenancy agreement was provided in evidence and which confirmed that this tenancy began August 1, 2017. Monthly rent was \$800.00. The Landlord testified that the rent was raised to \$820.00 in 2019.

The Landlord issued the Notice on July 7, 2020 and served the Notice by registered mail. The tracking number for that package is also included on the unpublished cover page of this my Decision.

The Landlord stated that the Tenants did not pick up the registered mail package including the Notice until August 7, 2020. The Landlord also confirmed that the Tenants did not apply to dispute the Notice.

The Landlord stated that she believes the Tenants will vacate the rental unit as of the effective date, however, she wishes to secure an Order of Possession to ensure the unit is vacated. She stated that on August 15, 2020, the Tenant, T.F., sent a text message to the Landlord indicating that they had secured alternate accommodation for September 30, 2020. The Tenants also asked her to provide a rental reference.

Analysis

The Landlord seeks an Order of Possession pursuant to section 49 of the *Act*; the relevant portions of which read as follows:

(3)A landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

...

(7)A notice under this section must comply with section 52 *[form and content of notice to end tenancy]* and, in the case of a notice under subsection (5), must contain the name and address of the purchaser who asked the landlord to give the notice.

(8)A tenant may dispute

(a)a notice given under subsection (3), (4) or (5) by making an application for dispute resolution within 15 days after the date the tenant receives the notice, or

(b)a notice given under subsection (6) by making an application for dispute resolution within 30 days after the date the tenant receives the notice.

(9)If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (8), the tenant

(a)is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b)must vacate the rental unit by that date.

I accept the Landlord's testimony and documentary evidence that she served the Notice on the Tenants by registered mail on July 7, 2020. I further accept her testimony that the Tenants failed to apply to dispute the Notice.

As provided for in section 49(9), the Tenants, in failing to dispute the Notice, are conclusively presumed to accept the end of the tenancy and must vacate the rental unit by the effective date: September 30, 2020.

I have reviewed the Notice and find that it complies with section 52 in terms of form and content. As such, the Landlord is granted an Order of Possession effective 1:00 p.m. on September 30, 2020. The Landlord must serve the Order on the Tenants and, if necessary, may file and enforce it in the B.C. Supreme Court.

Conclusion

The Tenants failed to apply to dispute the Notice as required by section 49. As such, the Landlord's Application for an Order of Possession is granted.

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 04, 2020

Residential Tenancy Branch