



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FFL

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served in person on August 11, 2020 with the application for dispute resolution, notice of hearing and all evidence in accordance with Section 89 of the Act. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy under written agreement started on December 15, 2019. Rent of \$1,800.00 is payable on or before the first day of each month. At the outset of the tenancy the Landlord collected \$900.00 as a security deposit. On July 18, 2020 the Landlord served the Tenant with a two month notice to end tenancy for landlord’s use (the “Notice”). The reason stated on the Notice is that the Landlord or a close family member of the landlord will occupy the unit. The Landlord will occupy the unit. The effective date of the Notice is stated incorrectly as September 16, 2020 and is automatically corrected to September 30, 2020. The Tenant has never indicated that it

would not move out of the unit as required and did not dispute the Notice. The Landlord is seeking the order of possession out of caution.

Analysis

Section 55(2)(b) of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Based on the Landlord's undisputed evidence of the date of service of the Notice I find that the time allowed for the Tenant to dispute the Notice has expired. Based on the Landlord's undisputed evidence that the Tenant received the Notice and did not dispute the Notice, I find that the Landlord is entitled to an order of possession. As there is no evidence that the Tenant did not intend to remain in the unit past the effective date, I decline to award recovery of the filing fee and this claim is dismissed.

Conclusion

I grant the Landlord an **Order of Possession** effective 1:00 p.m. on September 30, 2020. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and 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 Act.

Dated: September 18, 2020

Residential Tenancy Branch