



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for an Order of Possession for Landlord's Use of Property pursuant to sections 49 and 55.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:17 a.m. to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. 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.

The landlord LH attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified he personally served the tenant with the Application for Dispute Resolution Proceedings Package on August 28, 2020. He provided a proof of service document to corroborate this, although the date of service indicates August 26th. The landlord notes that the tenant signed the proof of service document indicating the application was served on August 28th, and based on that date, the landlord testified he made an error on the proof of service document and it was in fact served on August 28th. Based on the landlord's undisputed testimony, I am satisfied the tenant was served with the Application for Dispute Resolution Proceedings Package on August 28, 2020 in accordance with sections 89 and 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

A copy of the tenancy agreement was provided. This fixed term tenancy began on September 1, 2019, set to expire on September 1, 2020. Rent was set at \$1,100 per month payable on the first day of each month.

The landlord provided the following undisputed testimony. The rental unit is the basement unit in his single family detached house. On July 28, 2020, the landlord personally served the tenant with a Two Month's Notice to End Tenancy for Landlord's Use. The reason for ending the tenancy states:

The rental unit will be occupied by the landlord or the landlord's close family member. The close family member to occupy the unit is the child of the landlord or the landlord's spouse. The effective date stated on the notice is September 30, 2020. The landlord testified he did not collect rent for the month of September to compensate the tenant for serving her with the Two Month's Notice to End Tenancy for Landlord's Use.

The landlord provided a proof of service document, signed by the tenant acknowledging service of the notice on July 28, 2020.

The landlord testified that due to the covid-19 pandemic, his daughter is completing her courses online and that she requires the rental unit to live in. The landlord testified he sees the tenant regularly and has asked her when she will be moving, however the tenant has not given the landlord a date for her move.

Analysis

Based on the undisputed evidence of the landlord, I find the tenant was served with the Two Month's Notice to End Tenancy for Landlord's Use on July 28, 2020 in accordance with sections 88 and 90 of the Act.

Section 49(9) of the Act states:

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.

The tenant has not made application pursuant to section 49(8) of the Act within fifteen days of receiving the 2 Month Notice to End Tenancy for Landlord's Use of Property. The tenant is conclusively presumed to have accepted the tenancy ends on September 30, 2020 and must vacate the rental unit by that date.

The landlord is entitled to an order of possession effective September 30, 2020, as stated in the Two Month's Notice to End Tenancy for Landlord's Use. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit by September 30, 2020, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I grant an order of possession to the landlord effective September 30, 2020.

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 25, 2020

Residential Tenancy Branch