



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNRL-S, MNDCL-S, MNDL-S, FFL

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 pursuant to section 55;
- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The landlord and his agents attended the hearing via conference call and provided affirmed testimony. The landlord and his agents stated that the tenants were served with the notice of hearing package in person on September 18, 2020 and with the submitted documentary evidence posted to the rental unit door on October 8, 2020. I accept the undisputed affirmed evidence of the landlord and find that the tenants have been sufficiently served as per sections 88 and 89 of the Act.

Preliminary Issue(s)

At the outset, the landlord's requested issues were clarified. The landlord besides seeking an order to end the tenancy for landlord's use seeks a monetary order for unpaid rent, for damage, for money owed or compensation for damage or loss, recovery of the filing fee and to offset these claims against the security deposit. The landlord's monetary claim for \$2,000.00 for money owed or compensation and \$2,000.00 for

damage were dismissed with leave to reapply as the landlord is still unaware of sufficient details concerning these claims.

The hearing shall proceed on the landlord's request for an order of possession, a monetary claim for unpaid rent of \$900.00 and recovery of the \$100.00 filing fee.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for landlord's use of property?

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on August 1, 2015 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated July 30, 2015. The monthly rent was \$900.00 payable on the 1st day of each month. A security deposit of \$450.00 was paid on July 18, 2015.

The landlord provided undisputed affirmed testimony that the tenants were served with a 2 month notice to end tenancy issued for landlord's use of property dated June 30, 2020 in person on June 30, 2020. The 2 month notice sets out an effective end of tenancy date of August 31, 2020 and that the reason for the notice is:

The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse).

The landlord stated that it appears that the tenants have abandoned the rental unit.

The landlord also stated that the tenants failed to pay rent of \$900.00 for July 2020.

Analysis

Subsection 49(3) of the Act sets out that a landlord may end a tenancy in respect of a rental unit where a close family member of the landlord intends in good faith to occupy the rental unit.

In this case, I accept the undisputed affirmed evidence of the landlord and find that a 1 month notice to end tenancy was served to the tenants in person on June 30, 2020.

Pursuant to Section 49 (9) the tenants are deemed served with the 2 month notice dated June 30, 2020 in person. On this basis, the landlord is granted an order of possession.

On the landlord's undisputed claim of unpaid rent of \$900.00 for July 2020, I find that the landlord has established a claim.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

I authorize the landlord to retain the \$450.00 security deposit in partial satisfaction of this claim.

Conclusion

The landlord is granted an order of possession.

The landlord is granted a monetary order for \$550.00

These orders must be served upon the tenants. Should the tenants fail to comply with these orders, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial 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: October 26, 2020

Residential Tenancy Branch