



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 an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act, (the “Act”), for an order of possession based on an undisputed Two Month Notice to End Tenancy for Landlord’s Use of Property.

Both parties appeared. Both parties gave affirmed testimony. Both parties confirmed they were not making any unauthorized recording of the hearing. The tenant confirmed they received the landlord’s evidence. No evidence was filed by the tenants.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on November 18, 2019. Rent in the amount of \$2,300.00 was payable on the first of each month. A security deposit of \$1,600.00 was paid by the tenants.

The parties agreed the tenants were served with a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”), issued on December 16, 2020 and received by the tenants on December 17, 2020.

The landlord testified that the tenants did not dispute Notice, and they seek an order of possession. The landlord stated that the tenants did not pay rent for February 2021 as

that was their compensation for receiving the Notice. The landlord stated that the tenants have now failed to pay rent for April, May, and June 2021.

The tenant testified that they thought the co-tenant went to the service BC office and dispute the Notice. The tenant was unable to provide a file number. The tenant acknowledged they have not paid any rent for April, May, and June 2021, because they feel they are entitled to compensation. The tenant confirmed they have no authority under the Act to withhold the rent, such as an order from an Arbitrator.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the evidence of the landlord that the Notice was completed in accordance with Part 4 of the Act - How to End a Tenancy, pursuant to section 49 of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 52 the Act.

I am satisfied based on the landlord's evidence that the landlord has met the statutory requirements under the Act to end a tenancy.

In this case, the tenant claimed they disputed the Notice; however, the tenant was unable to provide a Residential Tenancy Branch (RTB) file number. I have searched the records of the RTB, and I cannot find any application filed by the tenants to dispute the Notice. Therefore, I must find that the tenants did not apply to dispute the Notice and therefore conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on the effective date of the Notice. I find the tenancy legally ended on February 28, 2021

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

At the conclusion of the hearing the tenant stated that they have found alternate housing and think they will get possession of their new premises on or about June 25,

2021. The tenant request permission to remain in the rental unit until June 30, 2021. As the tenants have received compensation for receiving the Notice by not paying rent for February 2021, and have not paid rent for April, May, and June 2021. I was not prepared to grant the tenants an extension of time as this would be unfair and prejudicial to the landlords; however, the parties agreed to the following:

1. The tenants will pay the landlord the sum of \$2,300.00 today, June 14, 2021 towards rent owed, by etransfer. If the rent of \$2,300.00 is paid on this date, the landlord will not enforce the two-day order of possession. If rent is not paid as stated this order remains in full force and effect.
2. Should the tenants pay the above amount on June 14, 2021, the tenants will be entitled to remain in the premises until June 30, 2021, on an occupancy basis and must vacate no later that **1:00PM on June 30, 2021**. I find the landlord is entitled to an order of possession, pursuant to section 55 of the Act.

Conclusion

The tenants failed to dispute the Notice. The tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlords are granted two separate orders of possession based on the above terms.

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: June 14, 2021

Residential Tenancy Branch