



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FFL

Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession for landlord's use of property and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord testified that the tenant was served with the application and notice of this hearing (the Hearing Package) by registered mail on June 3, 2021 and has provided a copy of a Canada Post cash register receipt bearing that date as well as a Registered Domestic Customer Receipt and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Has the landlord established that the Two Month Notice to End Tenancy for Landlord's Use of Property was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord testified that this fixed term tenancy began on August 30, 2020 and expires on August 30, 2021, and the tenant still resides in the rental unit. Rent in the amount of \$1,295.00 is payable on the last day of each month, and there are no rental arrears. At

the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$650.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a basement suite and the landlord resides in the upper level of the home. A copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord further testified that on April 29, 2021 the landlord served the tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property (the Notice) by posting it to the door of the rental unit. A copy of the Notice has been provided as evidence for this hearing and it is dated April 29, 2021 and contains an effective date of vacancy of August 30, 2021. The reason for issuing it states: "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). It specifies "The landlord or the landlord's spouse."

The landlord testified that he will be using the suite for additional living space, including a fitness room and other personal uses. The tenant has not paid any rent for this month as compensation required by law, and the landlord is aware of the consequences set out in the *Act* if the landlord does not use the rental unit for the purpose contained in the Notice.

The parties have exchanged text messages, but other than that there has been little communication, and the landlord seeks an Order of Possession effective August 30, 2021 and recovery of the filing fee.

Analysis

I have reviewed the Two Month Notice to End Tenancy for Landlord's Use of Property and I find that it is in the approved form and contains information required by the *Act*. The law specifies that if the tenant does not dispute the Notice, the tenant is conclusively presumed to have accepted the end of the tenancy. The landlord testified that the tenant has not served the landlord with an Application for Dispute Resolution, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy, and the landlord is entitled to an Order of Possession.

The tenancy agreement states that the tenancy is for a fixed period, expiring on August 30, 2021, and the Notice also contains that date. Therefore, I grant the Order of Possession in favour of the landlord effective at 1:00 p.m. on August 30, 2021.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the landlord in that amount and I order that the landlord be permitted to keep that amount from the security deposit held in trust, or may otherwise recover it by filing it for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective at 1:00 p.m. on August 30, 2021 and the tenancy will end at that time.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act*, and I order that the landlord may keep that amount from the security deposit held in trust or may otherwise recover it.

This order is final and binding and may be enforced.

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: August 27, 2021

Residential Tenancy Branch