



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing was convened as a result of the landlords' application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued to the tenant; and
- to recover the cost of the filing fee.

The landlord, their interpreter, and the tenant (who dialled in seven minutes after the start of the hearing), all attended the hearing. All parties provided their affirmed testimony.

The landlord stated they served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by hand delivery to the tenant on or about September 22, 2021.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the submissions are reproduced here; further, only the evidence specifically relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to the Notice and to recover the cost of the filing fee?

Background and Evidence

The landlord submitted that the tenancy began on November 1, 2016. Filed in evidence was a copy of the written tenancy agreement.

As to the Notice, the landlord testified that they served the Notice to the tenant on or about June 12, 2021, by hand delivery. The reason listed on the Notice for ending the tenancy was that the rental unit will be occupied by the father or mother of the landlord or landlord's spouse. The effective date of the Notice was August 31, 2021. Filed in evidence was a copy of the Notice.

The landlord testified that their spouse's mother and father intend on living in the rental unit. File in evidence was a signed and dated statement from the landlord's father-in-law and mother-in-law.

The tenant confirmed receiving the Notice and decided not to vacate, in order to make the transaction go through the proper channels.

Analysis

The Notice served on the tenant sets out that the tenant had fifteen (15) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenant did not file such application within 15 days, then the tenant is presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice, in this case, August 31, 2021.

The landlord provided undisputed testimony that they served the tenant with the Notice on or about June 12, 2021, by hand delivery. The tenant agreed, but wanted to make the transaction legal.

I have no evidence that the tenant filed an application for dispute resolution to dispute the Notice within the required time or at all.

As such, I therefore find the tenant is conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I have reviewed the Notice and find it was completed in accordance with section 49 of the Act. I also find the Two Month Notice was completed in the approved form and the content meets the statutory requirements under section 52 the Act.

I also find the landlord submitted sufficient evidence to support the reason listed on the Notice.

I therefore order the tenancy ended on August 31, 2021, the effective date of the Notice.

As a result, I find the landlord is entitled to an order of possession (Order) of the rental unit, pursuant to section 55 (2) of the Act, effective two (2) days after service on the tenant.

If the tenant fails to voluntarily comply with the Order, the Order must be served on the tenant to be enforceable. The Order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court if it becomes necessary.

The tenant is cautioned that costs of such enforcement, **such as bailiff costs and filing fees**, are recoverable from the tenant.

I find the landlord is entitled to recover the costs of their filing fee, due to their successful application. I grant the landlord a monetary order in the amount of \$100.

If the landlords collected a security deposit from the tenant, they may deduct \$100 to satisfy their monetary award. If they make such a deduction, the monetary order is void and of no force or effect.

Conclusion

The landlord's application for an order of possession of the rental unit is granted.

The landlord has been issued an order of possession of the rental unit, effective two days after service on the tenant.

The landlord is awarded recovery of their filing fee of \$100 and is given a monetary order in that amount.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 27, 2022

Residential Tenancy Branch