



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenant's application pursuant to section 49 of the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice").

This matter was set for hearing by telephone conference call at 9:30 am on this date. The line remained open while the phone system was monitored for twenty minutes and the only participants who called into the hearing during this time were the respondent and the new owner of the rental property.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to reapply.

Therefore, as the applicant did not attend the hearing by 9:40 am, and the respondent appeared and was ready to proceed, I dismiss the tenant's claim in its entirety without leave to reapply.

The respondent and the additional party were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The Respondent testified that they are the former landlord and the dispute property has been sold to the Additional Party RM. The current registered owners of the dispute property are RM and their spouse. RM and the Respondent submit that RM should be added as a party to

these proceedings and an Order of Possession should be in the name of RM and their spouse.

Pursuant to Residential Tenancy Rule of Procedure 7.13 I find that RM and their spouse should be added as parties to these proceedings. I am satisfied with the undisputed testimonies and the documentary evidence including Title Search listing RM and their spouse as registered owners in fee simple of the dispute property. As such, I add RM and their spouse as additional parties.

Section 55 of the *Act* provides that:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must** grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have dismissed the tenant's application, and I find that the landlord's 2 Month Notice complies with the form and content requirements of section 52 as it is signed and dated by the landlord, provides the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. I accept the undisputed evidence of the landlord and RM that RM, as purchaser gave written request to the landlord to issue the notice as they intend in good faith to occupy the rental unit. Therefore, I find that the purchasers and registered owners of the property RM and their spouse are entitled to an Order of Possession pursuant to section 55. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after service.

I note parenthetically that the parties gave undisputed evidence that the Respondent has allowed the tenant to withhold payment of monthly rent for October 2021 in accordance with the requirement for compensation in an amount equivalent to one month's rent pursuant to section 51. As such, I find the tenant has received the compensation payable under the *Act* and the current owners of the property RM and their spouse are under no obligation to provide any further compensation or allow withholding of rent under the *Act*.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the additional parties, RM and their spouse, effective **2 days after service on the tenant**. Should the tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme 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: January 7, 2022

Residential Tenancy Branch