



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RP, RR, LAT, AAT, OT, CNL-MT, OLC, MNDCT, LRE, AAT, LAT, DRI

Introduction

This hearing dealt with cross-applications filed by the Tenants. On November 1, 2021, the Tenants applied for a Dispute Resolution proceeding seeking a Monetary Order pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”), seeking a repair Order pursuant to Section 32 of the *Act*, seeking a rent reduction pursuant to Section 65 of the *Act*, seeking authorization to change the locks pursuant to Section 31 of the *Act*, and seeking access to the rental unit pursuant to Section 30 of the *Act*.

On November 9, 2021, the Tenants made a second Application for a Dispute Resolution proceeding seeking to cancel a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”) pursuant to Section 49 of the *Residential Tenancy Act* (the “Act”), seeking more time to cancel the Notice pursuant to Section 66 of the *Act*, seeking an Order to comply pursuant to Section 62 of the *Act*, seeking to restrict the Landlord’s right to enter pursuant to Section 70 of the *Act*, seeking to dispute a rent increase pursuant to Section 41 of the *Act*, and seeking relief on the same issues listed in their first Application.

Neither Tenant attended the hearing at any point during the 25-minute teleconference. R.P. attended the hearing, he stated that he purchased the property on October 22, 2021, and he indicated that he inherited the Tenants from the previous owner. As such, I have amended the Style of Cause on the first page of this Decision to reflect the new owner/Landlord as the Respondent.

At the outset of the hearing, I informed the Landlord that recording of the hearing was prohibited and he was reminded to refrain from doing so. He acknowledged this term, and he provided a solemn affirmation.

This hearing was scheduled to commence via teleconference at 9:30 AM on January 27, 2021.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct

the hearing in the absence of a party and may make a Decision or dismiss the Application, with or without leave to re-apply.

I dialed into the teleconference at 9:30 AM and monitored the teleconference until 9:55 AM. Only the Respondent dialed into the teleconference during this time. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I confirmed during the hearing that the Applicants did not dial in, and I also confirmed from the teleconference system that the only party who had called into this teleconference was the Landlord.

As the Tenants did not attend the hearing, I dismiss their Applications without leave to reapply.

The Landlord advised that he did not submit any evidence for consideration on this file.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Tenants entitled to have the Landlord's Notice cancelled?
- If the Tenants are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that he was unsure when the tenancy originally started; however, he inherited the Tenants when he became the owner on October 22, 2021. He stated that rent was established at \$985.00 per month and that it was due on the first day of each month. He was not sure if security deposit or a pet damage deposit were paid. A

copy of a written tenancy agreement was not submitted as the Landlord never received one from the previous owner.

He testified that the Notice was served to the Tenants by being posted to their door on November 5, 2021. The reason the Landlord served the Notice is because "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 Notice indicated that the effective end date of the tenancy was January 1, 2022.

He advised that his son and parents will be moving into the rental unit as the place they are currently renting is too expensive.

The Landlord did not submit a copy of the Notice for consideration. As I was unable to view the relevant Notice to determine if it complied with Section 52 of the *Act*, in accordance with Rule 3.19 of the Rules of Procedure, I provided direction on requesting late evidence. A copy of the Notice, that is the subject of this dispute, was requested to be provided by the Landlord as it is essential to the matter at hand. The Landlord provided a copy of this Notice by uploading it to the Residential Tenancy Branch system after the hearing concluded.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

As the Tenants did not attend the hearing, I have dismissed their Applications in their entirety. However, pursuant to Section 55(1) of the *Act*, in order to grant the Landlord an Order of Possession, I must still consider the validity of the Notice.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I have reviewed the Landlord's Two Month Notice to End Tenancy for Landlord's Use of Property to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. Given that the Notice was served in November 2021, the effective date of the Notice will self-correct to January 31, 2022 pursuant to Section 53 of the *Act*. Otherwise, I am satisfied that the Notice meets all of the requirements of Section 52.

As the Landlord's Notice is valid, as I am satisfied that the Notice was served in accordance with Section 89 of the *Act*, and as the Tenants' Applications have been dismissed, I uphold the Notice and find that the Landlord is entitled to an Order of Possession under Sections 47 and 55 of the *Act*.

Conclusion

I dismiss the Tenants' Applications for Dispute Resolution without leave to reapply. Furthermore, I grant an Order of Possession to the Landlord effective at **1:00 PM on January 31, 2022** after service of this Order on the Tenants. Should the Tenants 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 27, 2022

Residential Tenancy Branch