



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNL

Introduction

The hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Two Month Notice to End Tenancy.

The Tenant stated that on December 23, 2021 the Dispute Resolution Package was personally served to the Agent for the Landlord #2. The Agent for the Landlord #2 acknowledged receipt of these documents.

On January 11, 2022 the Landlord submitted evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that she does not know if this evidence was served to the Tenant as evidence for these proceedings. The Tenant stated that she was not served with evidence for these proceedings. As the Landlord has failed to establish service of the Landlord's evidence, the bulk of that evidence was not accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Preliminary Matter #1

The Agent for the Landlord and the Tenant each acknowledged that they have a copy of the Two Month Notice to End Tenancy that is the subject of these proceedings, which was submitted to the Residential Tenancy Branch by the Landlord.

I confirmed relevant information on the Two Month Notice to End Tenancy and am satisfied that each party has a copy of the same Two Month Notice to End Tenancy that was submitted to the Residential Tenancy Branch by the Landlord.

As the parties each had a copy of that Two Month Notice to End Tenancy available to them at the time of the hearing and this document is highly relevant to the issues in dispute, I find it reasonable to accept this document as evidence for these proceedings, even though it was not served as evidence in accordance with section 88 of the *Act*. I note that it was served to the Tenant on December 07, 2021 when it was posted on the door of the rental unit.

Preliminary Matter #2

With the consent of both parties, the Application for Dispute Resolution was amended to reflect the legal name of the Landlord, as that name was provided at the hearing.

Issue(s) to be Decided

Should the Two Month Notice to End Tenancy be set aside?

Background and Evidence

The Landlord and the Tenant agree that this is a subsidized rental unit and that rent is due by the first day of each month.

The Agent for the Landlord stated that the Two Month Notice to End Tenancy was posted on the door of the rental unit on December 07, 2021. The Tenant stated that she located this Two Month Notice to End Tenancy on December 07, 2021.

The parties agree that this Two Month Notice to End Tenancy declared that the rental unit must be vacated by February 28, 2022 because the Tenant no longer qualifies for subsidized housing.

The Landlord and the Tenant agree that this is a two bedroom unit; that tenants do not qualify for two bedrooms units if they do not have a child under the age of 25 years living in the unit; and that the Tenant no longer qualifies for this subsidized rent unit as she does not have any children under the age of 25.

Analysis

Section 49.1(2) of the *Residential Tenancy Act (Act)* permits a landlord of a subsidized rental unit to end a tenancy by giving notice to end the tenancy if the tenant or other occupant, as applicable, ceases to qualify for the rental unit.

On the basis of the undisputed evidence, I find that the Tenant received a Two Month Notice to End Tenancy on December 07, 2021, in which the Landlord informed the Tenant the tenancy was ending pursuant to section 49.1(2) of the *Act*.

On the basis of the undisputed evidence that the Tenant no longer qualifies for this subsidized rental unit, I find that the Landlord has the right to end this tenancy pursuant to section 49.1(2) of the *Act*. I therefore dismiss the Tenant's application to set aside this Two Month Notice to End Tenancy.

Section 55(1) of the *Act* stipulates 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 the landlord's notice to end tenancy complies with section 52 of the *Act*, and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As I am satisfied that the Two Month Notice to End Tenancy complies with section 52 of the *Act* and I have dismissed the application to set aside the Two Month Notice to End Tenancy, I must grant the Landlord an Order of Possession. I therefore grant the Landlord an Order of Possession, pursuant to section 55(1) of the *Act*.

At the hearing the Agent for the Landlord stated that the Landlord would be agreeable to an Order of Possession that is effective on April 30, 2022.

Conclusion

I grant the Landlord an Order of Possession that is effective on April 30, 2022. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

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: February 14, 2022

Residential Tenancy Branch