



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This hearing was convened as a result of the Tenant's application under the *Residential Tenancy Act* (the "Act") for:

- cancellation of a Two Month Notice to End Tenancy for Landlord's Use dated January 26, 2022 (the "Two Month Notice") pursuant to section 49; and
- authorization to recover the filing fee for this application from the Landlord pursuant to section 72.

The Landlord's son ("CB") and daughter-in-law ("AB") attended the hearing as the Landlord's agents. CB and AB were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The Tenant did not attend this hearing. I left the teleconference hearing connection open until 1:40 pm in order to enable the Tenant to call into the hearing scheduled to start at 1:30 pm. I confirmed that the correct call-in numbers and participant codes had been provided in the notice of dispute resolution proceeding. I used the teleconference system to confirm that the CB, AB, and I were the only ones who had called into the hearing.

I advised CB and AB that the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") prohibit unauthorized recordings of dispute resolution hearings. CB and AB confirmed they were not recording this dispute resolution hearing.

CB and AB stated they served the Tenant in person on April 21, 2022 with a copy of the Landlord's documentary evidence for dispute resolution. Based on CB and AB's undisputed testimony, I find the Tenant was served with the Landlord's evidence on April 21, 2022, in accordance with section 88 of the Act.

Preliminary Matter – Dismissal of the Tenant's Application

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.

As the Tenant did not attend the hearing by 1:40 pm, while CB and AB appeared on behalf of the Landlord and were ready to proceed, I dismiss the Tenant's application in its entirety without leave to reapply.

Issue to be Decided

Is the Landlord entitled to an Order of Possession, pursuant to section 55(1) of the Act?

Background and Evidence

AB testified the Tenant moved into the rental unit on October 1, 2021. AB confirmed the tenancy was on a month-to-month basis, with rent of \$1,600.00 due on the first day of each month. AB confirmed the Tenant paid a security deposit of \$800.00 and a pet damage deposit of \$800.00, which are currently held by the Landlord.

CB and AB stated they sold their home in February 2022 and intend to move into the rental unit. CB and AB confirmed the rental unit is a basement suite and the Landlord, CB's mother, resides in the upper unit.

CB testified he served the Tenant with a copy of the Two Month Notice in person on January 26, 2022.

Analysis

Based on the Landlord's undisputed evidence and testimony, I find the Tenant was served with the Two Month Notice in accordance with section 88 of the Act on January 26, 2022.

Sections 55(1) of the Act states:

Order of possession for the landlord

55 (1) 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.

Section 52 of the Act states:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
- (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.

In this case, I have reviewed a copy of the Two Month Notice submitted into evidence by the Landlord. I find the Two Month Notice complies with the form and content requirements of section 52 of the Act.

Having dismissed the Tenant's application and found the Two Month Notice to comply with section 52, and based the Landlord's undisputed evidence and testimony, I conclude that the Landlord is entitled to an Order of Possession pursuant to section 55(1) of the Act.

I note that pursuant to section 53(3)(a) of the Act, the effective date of the Two Month Notice is deemed to be March 31, 2022. In any event, as the effective date of the Two Month Notice has already passed, I grant the Landlord an Order of Possession effective 2 days after service of the Order upon the Tenant.

Conclusion

The Tenant's application is dismissed without leave to reapply.

I grant an Order of Possession to the Landlord effective 2 days after service upon the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in 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: May 2, 2022

Residential Tenancy Branch