



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 6973 HOLDINGS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

Landlord's application: OPL FFL
Tenant's application: CNL

Introduction

This hearing dealt with an Application for Dispute Resolution (application) from both the landlord and tenant who are both seeking remedy under the *Residential Tenancy Act* (Act). The landlord is seeking an order of possession based on an undisputed 2 Month Notice to End Tenancy for Landlord's Use of Property dated June 16, 2022 (2 Month Notice, and to recover the filing fee. The tenant is seeking to cancel the 2 Month Notice. The tenant's filing fee was waived.

An agent for the corporate landlord, GP (agent) and the tenant attended the teleconference hearing. The hearing process was explained to the parties and during the hearing the parties were given the opportunity to provide their evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Regarding the service of evidence both parties confirmed being served with and having had the opportunity to review the evidence from the other party. As a result, I find the parties were sufficiently served in accordance with the Act.

Preliminary and Procedural Matters

The parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

The tenant also testified that they vacated the rental unit on or about October 30, 2022. The tenant confirmed they did not inform the landlord or return the rental unit keys. The landlord is seeking an order of possession just in case the tenant is not telling the truth.

Issues to be Decided

- Is the landlord entitled to an order of possession under the Act?
- If yes, is the landlord also entitled to the recovery of the cost of the filing fee?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month-to-month tenancy began on June 1, 2021. The parties agreed that the last monthly rent amount was \$598.85. The tenant paid a \$290 security deposit at the start of the tenancy, which the landlord continues to hold.

A copy of the 2 Month Notice was submitted in evidence. It is dated June 16, 2022 and the tenant writes in their application that they received the 2 Month Notice on June 20, 2022. The effective vacancy date listed on the 2 Month Notice was September 1, 2022, which has passed. The 2 Month Notice states on page 2 in part the following:

Reason for this Two Month's Notice to End Tenancy (check the box that applies)	
<input checked="" type="checkbox"/>	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).
Please indicate which close family member will occupy the unit.	
<input checked="" type="radio"/>	The landlord or the landlord's spouse
<input type="radio"/>	The child of the landlord or landlord's spouse
<input type="radio"/>	The father or mother of the landlord or landlord's spouse
<input type="checkbox"/>	The landlord is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.
<input type="checkbox"/>	All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.
<input type="checkbox"/>	The tenant no longer qualifies for the subsidized rental unit.

The landlord testified that they plan to occupy the rental unit in the summer so they don't have to rent a hotel when they are in the area.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession – Section 55(1) of the Act applies and 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.**

[emphasis added]

Based on the above and considering that the tenant testified that they vacated the rental unit on October 30, 2022, the tenant's application to cancel the 2 Month Notice is dismissed without leave to reapply. In addition, I grant the landlord an order of possession **effective immediately**, as the tenant confirmed they have vacated the rental unit; however the tenant has not returned the rental unit keys.

I find the 2 Month Notice complies with section 52 of the Act as it is signed, dated and the correct form was used. I also find the landlord provided sufficient evidence to support that they intend to occupy the rental unit as described above.

As the landlord's application had merit, I grant the landlord the recovery of their **\$100** filing fee pursuant to section 72 of the Act. I authorize the landlord to deduct \$100 from the tenant's security deposit of \$290 in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 38, 67 and 72 of the Act. Pursuant to sections 38 and 62(3) of the Act, I find that the tenant's security deposit balance is \$190 effective immediately.

Conclusion

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

The landlord's application is successful.

The tenancy ended on September 1, 2022.

The landlord has been granted an order of possession effective immediately. This order must be served by posting to the rental unit door as discussed during the hearing. The

order of possession may also be enforced in the Supreme Court of British Columbia, if necessary.

The landlord is granted the \$100 filing fee by reducing the security deposit of \$290 to \$190 effective immediately as indicated above.

This Decision will be emailed to both parties. The order of possession will be sent via email to the landlord for service on the tenant.

This Decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 14, 2022

Residential Tenancy Branch