



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied for an order of possession of the rental unit pursuant to a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued to the tenants, and recovery of the cost of the filing fee.

The landlord attended the hearing; however, neither tenant attended. The landlord was affirmed for the hearing.

The landlord stated she served each tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on July 8, 2022. The landlord filed the two registered mail receipts showing the tracking numbers.

I accept the landlord's evidence and find that each tenant was served notice of this hearing in a manner complying with section 89(1)(d) of the Act. The hearing proceeded in the tenants' absences.

The landlord was provided the opportunity to present her evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the submissions are reproduced here; further, only the evidence specifically relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to the Notice and to recover the cost of the filing fee?

Background and Evidence

The landlord testified that the tenancy began many years ago and that the current monthly rent is \$1,155. The landlord submitted that her property manager usually dealt with the tenants in this tenancy.

As to the Notice, the landlord testified that she served the Notice to the tenants on May 24, 2022, by registered mail and by dropping the Notice in the tenants' mailbox.

The Notice filed in evidence by the landlord shows a signed date of May 24, 2022, for an effective move-out date of July 31, 2022. The reason listed on the Notice for ending the tenancy was that the rental unit will be occupied by the child of the landlord or landlord's spouse.

The landlord testified that her daughter intends on moving into the rental unit when the tenancy is over. The landlord filed a signed written statement, in which the landlord's daughter wrote she wants to move into the rental unit due to her nursing studies. The daughter explained that she is often around people with contagious diseases and wanted to decrease close contact with her mother. In addition, the landlord's daughter wrote that she needed a quiet study space.

Analysis

The Notice served on the tenants sets out that the tenants had fifteen (15) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the

tenants did not file such an application within 15 days, then the tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice, in this case, July 31, 2022.

The landlord provided undisputed evidence that she served the tenants with the Notice on May 24, 2022, by registered mail and placing the document in the tenants' mailbox. The Act provides that the tenant is deemed to have received the document by registered mail five days later, or in this case, May 28, 2022.

I have no evidence that the tenants filed an application for dispute resolution to dispute the Notice within the required time.

As such, I therefore find the tenants are conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I have reviewed the Notice and find it was completed in accordance with section 49 of the Act. I also find the Two Month Notice was completed in the approved form and the content meets the statutory requirements under section 52 the Act.

I have reviewed the landlord's undisputed evidence and find she had sufficient reason to end the tenancy based on her daughter moving into the rental unit.

I therefore order the tenancy ended on July 31, 2022, the effective date of the Notice.

I therefore find the landlord is entitled to an order of possession (Order) of the rental unit, pursuant to section 55 (2) of the Act, effective two (2) days after service on the tenant.

If the tenants fail to voluntarily comply with the Order, the Order must be served on the tenants to be enforceable. The Order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court if it becomes necessary.

The tenants are cautioned that costs of such enforcement, **such as bailiff costs and filing fees**, are recoverable from the tenants.

I find the landlord is entitled to recover the costs of her filing fee, due to the successful application. I grant the landlord a monetary order in the amount of \$100.

If the landlord collected a security deposit from the tenants, she may deduct \$100 to satisfy their monetary award. If they make such a deduction, the monetary order is void and of no force or effect.

Conclusion

The landlord's application for an order of possession of the rental unit is granted.

The tenancy was ordered ended on July 31, 2022.

The landlord has been issued an order of possession of the rental unit, effective two days after service on the tenants.

The landlord is awarded recovery of her filing fee of \$100 and is given a monetary order in that amount.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: November 04, 2022

Residential Tenancy Branch