



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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DECISION

Dispute Codes: OPC

Introduction

The landlord seeks an order of possession on an undisputed notice to end tenancy under section 55(2)(b) of the *Residential Tenancy Act* (the “Act”).

A hearing was held on Monday, December 5, 2022 at 9:30 AM and an agent for the landlord attended. The agent gave evidence, under oath, that the tenants were served with the *Notice of Dispute Resolution Proceeding* on July 22, 2022 on the tenants in person. Given the undisputed evidence before me it is my finding that the tenants were served with the required notice necessary for them to participate in the dispute resolution proceeding. They did not, and the hearing ended at 9:35 AM.

Issue

Is the landlord entitled to an order of possession?

Background and Evidence

On March 3, 2022 the Municipality of North Cowichan issued an order (the “Order”) under their zoning and building bylaws that the rental unit be decommissioned.

On April 2, 2022 the landlord issued a *One Month Notice to End Tenancy for Cause* (the “Notice”) under section 47(1)(k) of the Act, namely, that “the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority.” The reason for issuing the order was indicated on page two of the Notice, and a copy of the Order was attached to the Notice. A copy of both the Order and the Notice was submitted into evidence.

The agent testified that the Notice was signed on March 31, 2022 and served on the tenants in person on April 2, 2022. To the agent’s knowledge the tenants did not dispute the Notice. As such, the landlord seeks an order of possession on the undisputed Notice.

Analysis

A landlord may end a tenancy by giving a notice under section 47(1)(k) of the Act in order to comply with an order of a municipal government authority that the rental unit be vacated. In this dispute the order was given by a municipal government.

Section 47(3) of the Act requires that a notice given under this section must comply with section 52 of the Act in form and content. Having reviewed the Notice it is my finding that it complies with the form and content requirements set out in section 52.

The tenants did not file an application to dispute the Notice within ten days (section 47(4) of the Act) and as such are presumed to have accepted that the tenancy ended on April 30, 2022. They were required to vacate the rental unit, which they did not.

Section 55(2)(b) of the Act states that a landlord may request an order of possession when a notice to end the tenancy has been issued, the tenant has not disputed the notice, and the time for making that application has expired.

Having found that the Notice was issued under a valid ground, that the Notice meets the form and content requirement, and having found that the tenants did not dispute the Notice, the landlord is entitled to an order of possession pursuant to section 55(2)(b) of the Act. An order of possession is issued with this Decision to the landlord. As briefly noted during the hearing, the landlord (or their agent) must serve a copy of the order of possession upon both tenants.

Conclusion

The application is hereby granted, and the landlord is issued an order of possession.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: December 5, 2022

Residential Tenancy Branch