



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- an order of possession based on tenant's written notice to end tenancy pursuant to section 55;
- an order of possession for cause pursuant to section 55;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 1:50 p.m. to enable the tenants to connect with this teleconference hearing scheduled for 1:30 p.m. The landlords attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on September 24, 2022, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenants by registered mail. Registered mail receipts and tracking numbers were provided in support of service. The landlord testified that the registered mail packages were not picked up and returned to her as unclaimed.

Based on the above evidence, I find the tenants to be deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenants.

Although the landlord's application indicating they were seeking an order of possession based upon a 10 Day Notice and a tenant's notice to end tenancy neither of these notices were submitted on file. Therefore, this hearing only dealt with the merits of the One Month Notice. During the hearing, the landlord advised she was also seeking monetary compensation for outstanding utilities; however, as the landlord's application

did not include a request for such monetary application, this was also not addressed in this hearing.

Issues

Is the landlord entitled to an order of possession pursuant to a One Month Notice to End Tenancy for Cause (the One Month Notice)?

Is the landlord entitled to recover its filing fee?

Background and Evidence

The tenancy began in August 2019. The tenants are the landlords' son and former daughter-in-law. There was no tenancy agreement provided on file. The landlord testified they had a verbal agreement whereas the tenants would be responsible to pay the utilities on the property. No security deposit was collected at the start of the tenancy.

The landlord testified that on August 25, 2022, she personally served the tenant A.C. with the One Month Notice. A witnessed Proof of Service form of the Notice to End Tenancy was provided on file. The effective date of the One Month Notice was September 30, 2022. The landlord testified that the tenant R.C. vacated as per the effective date of the One Month Notice. The landlord testified that the tenant A.C. may also have vacated as of December 2, 2022, but they were still requesting an order of possession to be sure.

The tenants did not file an application to dispute the One Month Notice.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving a notice to end tenancy. Under this section, the tenant may make a dispute application within ten days of receiving the One Month Notice. If the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the One Month Notice. A notice given under this section must comply with the form and content requirements of section 52 of the Act.

Pursuant to section 55(2)(b) of the *Act*, a landlord may request an order of possession of a rental unit if: a notice to end the tenancy has been given by the landlord, the tenant

has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

I am satisfied that the tenants were personally served with the One Month Notice on August 25, 2022. As the tenants did not make an application to dispute the notice within 10 days of receiving it, the tenants are conclusively presumed to have accepted the end of the tenancy.

Section 52 of the Act states as follows:

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, and
- (e) when given by a landlord, be in the approved form.

I find that the One Month Notice served by the landlord is in compliance with the form and content requirements of section 52 of the Act. The Notice was signed and dated by the landlord, provided the address of the rental unit, stated the effective date of the Notice, stated the grounds for ending the tenancy and was in the approved form.

Therefore, the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. The landlord is awarded a monetary order for this amount.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant the landlord a Monetary Order in the amount of \$100.00. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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: January 24, 2023

Residential Tenancy Branch