



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FFL

Introduction

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

- an order of possession for landlords' use of property, pursuant to section 55;
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

"Landlord ZZ" and "tenant SKL" did not attend this hearing, which lasted approximately 16 minutes from 11:00 a.m. to 11:16 a.m. Landlord AS ("landlord") and tenant RCCL ("tenant"), and the tenants' lawyer attended this hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

All hearing participants confirmed their names and spelling. The landlord and the tenant provided their email addresses for me to send this decision to both parties after the hearing.

The landlord confirmed that she had permission to represent landlord ZZ at this hearing (collectively "landlords"). She said that both landlords co-own the rental unit. She provided the rental unit address.

The tenant confirmed that he had permission to represent tenant SKL at this hearing (collectively "tenants"). He said that the tenants' lawyer had permission to represent the tenants at this hearing. He identified the tenants' lawyer as the primary speaker for both tenants at this hearing.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, all hearing participants separately affirmed that they would not record this hearing.

I explained the hearing process to both parties. I informed them that I could not provide legal advice to them. They had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with this hearing.

The landlord confirmed that she did not bring an English language translator or require one at this hearing. She stated that she could understand English and proceed with this hearing.

The tenants’ lawyer confirmed receipt of the landlords’ application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that both tenants were duly served with the landlords’ application.

The landlord said that the landlords were already in receipt of the tenants’ evidence from prior to this hearing, including the tenants’ application for tenancy and the parties’ written tenancy agreement.

Preliminary Issue – Dismissal of Landlords’ Application

Both parties agreed that the tenants did not receive a Two Month Notice to End Tenancy for Landlord’s Use of Property (“2 Month Notice”) in the approved RTB form from the landlords. Both parties agreed that the tenants only received a letter, dated June 8, 2022, from the landlords, asking the tenants to vacate the property.

Sections 49 and 52 of the *Act*, state in part (my emphasis added):

- 49 (2) *Subject to section 51 [tenant's compensation: section 49 notice], a **landlord may end a tenancy** (a) for a purpose referred to in subsection (3), (4), (5) or (6) **by giving notice to end the tenancy** effective on a date that must be (i) not earlier than **2 months** after the date the tenant receives the notice,*

...

(7) A notice under this section must comply with section 52 [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**
(e) when given by a landlord, be in the approved form.

Both parties provided undisputed, affirmed testimony at this hearing, that the tenants did not receive a 2 Month Notice in the approved RTB form from the landlords.

Accordingly, the landlords' application for an order of possession for landlords' use of property, pursuant to section 55 of the *Act*, is dismissed without leave to reapply.

As the landlords were unsuccessful in this application, I find that they are not entitled to recover the \$100.00 filing fee paid for this application.

I verbally informed both parties of my decision during this hearing. Both parties confirmed their understanding of same.

Conclusion

The landlords' entire application is dismissed without leave to reapply.

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 23, 2023

Residential Tenancy Branch