



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPU, OPE, MNRL, MNDCL

Introduction

On October 13, 2022, the Landlords submitted an Application for Dispute Resolution under the Residential Tenancy Act (“the Act”) for an order of possession to enforce a one-Month Notice to End tenancy for cause dated September 26, 2022 (the “Notice”). The matter was set for a conference call.

On January 7, 2023, the Landlords submitted an Application to amend their Dispute Resolution under the Act, adding a request for an order of possession to enforce a 10-Day Notice to End tenancy for unpaid utilities dated October 27, 2022, for a monetary order for unpaid rent and utilities. These matters were added to the scheduled conference call.

Both the Landlords (the “Landlord”) and both the Tenants (the “Tenant”) attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters – Issues Withdrawn

During these proceedings, the Landlord requested to withdraw their claims for an order of possession to enforce a 10-Day Notice to End tenancy for unpaid utilities dated October 27, 2022, and for a monetary order for unpaid rent and utilities.

As the Tenant did not object to the Landlord's request. Therefore, I grant the Landlord's request to withdraw the two above-noted items from this application.

I will proceed in this hearing with the Landlord's remaining claim for an order of possession to enforce a one-Month Notice to End tenancy for cause dated September 26, 2022 (the "Notice").

Issue to be Decided

- Is the Landlord entitled to an order of possession, pursuant to section 47 of the *Act*?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Landlord testified that the tenancy began in the spring of 2012, and the Tenant testified that the tenancy began in January 2011. Both parties agreed that the rent for this tenancy started at \$800.00 per month, plus utilities and that no security deposit or pet damage deposit was collected for this tenancy. The Landlord and Tenant agreed that there was no written tenancy agreement for this tenancy.

The parties also agreed that between May 30, 2012, to August 28, 2022, the Landlord and Tenant had entered into a work agreement to exchange labour for rent.

The Landlord testified that they served the Notice to end tenancy to the Tenant on January 31, 2020, by personal service. Both the Landlord and the Tenant provided a copy of the Notice into documentary evidence.

The reason checked off within the Notice is as follows:

- *Tenant's rental unit/site is provided by the employer to the employee to occupy during the term of employment and employment has ended.*

The Tenant testified that they did not file to dispute the Notice.

The Landlord testified that they are seeking an order of possession to enforce their Notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 48 of the *Act* requires that upon receipt of a Notice to End Tenancy for end of employment with the landlord, a tenant must indicate, within ten days, their intent to dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice under section 48(6).

Landlord's notice: end of employment with the landlord

48 (1) A landlord may end the tenancy of a person employed as a caretaker, manager or superintendent of the residential property of which the rental unit is a part by giving notice to end the tenancy if

- (a) the rental unit was rented or provided to the tenant for the term of his or her employment,*
- (b) the tenant's employment as a caretaker, manager or superintendent is ended, and*
- (c) the landlord intends in good faith to rent or provide the rental unit to a new caretaker, manager or superintendent.*

(2) An employer may end the tenancy of an employee in respect of a rental unit rented or provided by the employer to the employee to occupy during the term of employment by giving notice to end the tenancy if the employment is ended.

- (3) A notice under this section must end the tenancy effective on a date that is*
 - (a) not earlier than one month after the date the tenant receives the notice,*
 - (b) not earlier than the last day the tenant is employed by the landlord, and*

- (c) the day before the day in the month, or in the other period on which the tenancy is based, that rent, if any, is payable under the tenancy agreement.*
- (4) A notice under this section must comply with section 52 [form and content of notice to end tenancy].*
- (5) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.*
- (6) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (5), the tenant*
 - (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and*
 - (b) must vacate the rental unit by that date.*

I accept the Tenant's testimony, and I find that the Tenant has not disputed the Notice and that they are conclusively presumed to have accepted the tenancy ended on the effective date of the Notice.

Section 55 of the *Act* states that a landlord may request an order of possession if a notice to end the tenancy has been given by the landlord and the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

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.*

Therefore, I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the *Act*, effective two days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

The Tenant is cautioned that the costs of such enforcement are recoverable from the Tenant.

Conclusion

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

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: February 24, 2023

Residential Tenancy Branch