



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding M'AKOLA HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPQ, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on March 3, 2023 concerning an application made by the landlord seeking an order of possession because the tenants no longer qualify for subsidized housing, and to recover the filing fee from the tenants for the cost of the application.

An agent for the landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenants joined the call.

The landlord's agent submitted that the tenants were served with the Notice of Dispute Resolution Proceeding and all evidence by registered mail, individually, on November 16, 2022. Copies of 2 Registered Domestic Customer Receipts addressed to each of the tenants has been provided for this hearing.

Although the application of the landlord was filed on November 8, 2022, the landlord's agent submitted that the documents were served late due to illness of the landlord's agents. There are 2 people working in the landlord's office, and both became ill requiring the office to be closed for 2 weeks. The agent of the landlord who attended this hearing was hospitalized, and was in and out of hospital for most of November and a week in December, 2022, and lost the ability to speak until about early to mid-January. The tenants have not responded to any of the landlord's written letters.

In the circumstances, and pursuant to my authority under Section 59 of the *Residential Tenancy Act*, I accept the submissions of the landlord's agent, and I find that the tenants have been served in accordance with the *Act*.

Issue(s) to be Decided

Has the landlord established that the Two Month Notice to End Tenancy For Landlord's Use of Property or Because the Tenant Does Not Qualify for Subsidized Rental Unit was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on September 1, 2021, however the tenants actually moved into the rental unit on August 10, 2021 and paid a pro-rated amount of rent for the first month of the tenancy. Rent is subsidized and the tenants' share is \$809.00 per month payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$600.00 which is still held in trust by the landlord. A copy of the tenancy agreement has been provided for this hearing which indicates a \$600.00 pet damage deposit, however the landlord's agent testified that no pet damage deposit was collected. The rental unit is a townhouse.

The landlord's agent further testified that on May 26, 2022 the tenants were served with a Two Month Notice to End Tenancy For Landlord's Use of Property or Because the Tenant Does Not Qualify for Subsidized Rental Unit (the Notice) by registered mail, and a copy of the Registered Domestic Customer Receipt has been provided for this hearing. The Notice is dated May 26, 2022 and contains an effective date of vacancy of July 31, 2022. The reason for issuing it states: The tenant no longer qualifies for the subsidized rental unit.

The landlord's agent also testified that BC Housing requires all tenants to participate in a rent review to determine what the subsidy should be each year. The landlord gave a letter dated February 1, 2022 to the tenants and again on March 15, 2022 requesting that the tenants comply, however no documentation was provided by the tenants to the landlord. The landlord also provided a letter to the tenants with the Notice, dated May 26, 2022 stating that the required documentation was not received to perform the annual rent review.

The landlord's agent testified that the tenants have not served the landlord with a Notice of Dispute Resolution Proceeding disputing the Notice, and the landlord seeks an order of possession, and a monetary order for recovery of the filing fee.

Analysis

The *Residential Tenancy Act* specifies that once served with a Two Month Notice to End Tenancy For Landlord's Use of Property or Because the Tenant Does Not Qualify for Subsidized Rental Unit (the Notice), the tenant has 15 days to dispute it. If the tenant does not dispute it, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, I accept the undisputed testimony of the landlord's agent that the tenants have not disputed the Notice, and I have no such application before me.

I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. Therefore, I grant an order of possession in favour of the landlord. Since the effective date of vacancy has passed, I grant the order of possession effective on 2 days notice to the tenants. The tenants must be served with the order of possession which may be enforced by filing it in the Supreme Court of British Columbia.

Since the landlord has been successful with the application, the landlord is also entitled to recover the \$100.00 filing fee from the tenants. I grant a monetary order in favour of the landlord in that amount. The tenants must be served with the order, and I order that the landlord may keep that amount from the security deposit held in trust, or may file the order for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, I hereby grant an order of possession in favour of the landlord effective on 2 days notice to the tenants.

I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00, and I order that the landlord may keep that amount from the security deposit held in trust, or may otherwise recover it.

This order is final and binding and may be enforced.

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: March 03, 2023

Residential Tenancy Branch