



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPL FFL

Introduction

This dispute relates to the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Order of possession based on a undisputed 2 Month Notice to End Tenancy for Landlord's Use of Property dated July 10, 2022 (2 Month Notice),
2. Filing fee of \$100.

The parties attended the teleconference hearing and were affirmed. The hearing process was explained to the parties and during the hearing the parties were given the opportunity to provide their evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The tenant confirmed having been served with the application and documentary evidence and that they had the opportunity to review that evidence prior to the hearing. The tenant also confirmed that they did not serve any evidence in response on the landlord. As a result, I find the tenant was sufficiently served in accordance with the Act.

Preliminary and Procedural Matter

The parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

Issues to be Decided

- Is the landlord entitled to an order of possession under the Act?
- If yes, is the landlord also entitled to the recovery of the cost of the filing fee?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on May 1, 2020 and converted to a month-to-month tenancy after November 1, 2020. Monthly rent in the amount of \$2,000 is due on the first day of each month. The tenant paid a security deposit of \$750.

A copy of the 2 Month Notice was submitted in evidence. It is dated July 10, 2022 and the tenant confirmed receiving the 2 Month Notice and that they did not dispute the 2 Month Notice. The effective vacancy date listed on the 2 Month Notice was December 31, 2022. The 2 Month Notice states on page 2 in part the following:

Reason for this Two Month's Notice to End Tenancy (check the box that applies)	
<input checked="" type="checkbox"/>	The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse).
Please indicate which close family member will occupy the unit.	
<input checked="" type="radio"/>	The landlord or the landlord's spouse
<input type="radio"/>	The child of the landlord or landlord's spouse
<input type="radio"/>	The father or mother of the landlord or landlord's spouse
<input type="checkbox"/>	The landlord is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.
<input type="checkbox"/>	All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.
<input type="checkbox"/>	The tenant no longer qualifies for the subsidized rental unit.

The landlord confirmed that they intend to occupy the rental unit and the tenants claim they could not find a new place to move to but will be leaving the rental unit by April 15, 2023.

The landlord confirmed that rent was not charged for April 2023 as compensation for the 2 Month Notice being issued.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession – Section 55(2)(b) of the Act applies and states:

Order of possession for the landlord

55(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(b) 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;

[emphasis added]

Based on the above and considering that the tenant failed to file an application to cancel the 2 Month Notice even though they were served with the 2 Month Notice, I find the tenancy ended on the effective vacancy date listed, which was **December 31, 2022**. In addition, **I grant** the landlord an order of possession **effective April 30, 2023 at 1:00 p.m.**

I find the 2 Month Notice complies with section 52 of the Act as it is signed, dated and the correct form was used. As the landlord's application had merit, I grant the landlord the recovery of the filing fee in the amount of **\$100** and authorize the landlord to deduct that amount from the tenant's \$750 security deposit. I find the security deposit is now \$650 as a result.

Conclusion

The landlord's application is successful.

The tenancy ended on December 31, 2022.

The landlord has been granted an order of possession effective April 30, 2023 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision will be emailed to both parties.

The order of possession will be sent via email to the landlord for service on the tenant.

If the tenant fails to vacate they can be held liable for all costs related to enforcement of the order of possession including court costs and bailiff fees.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 13, 2023