



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPL

Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order of Possession, further to having served a Two Month Notice to End Tenancy for Landlord's Use dated December 20, 2022 ("Two Month Notice").

The Tenant and the Landlord, G.G., appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it.

During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Landlord provided the Parties' email addresses in the Application and they confirmed these addresses in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only

consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately. The Tenant initially said he was recording the hearing, but I advised him that this was prohibited and that the RTB was recording the hearing, anyway. The Tenant said he turned off his recording.

Issue(s) to be Decided

- Are the Landlords entitled to an Order of Possession?

Background and Evidence

The Parties agreed that the tenancy began on March 15, 2022, with a monthly rent of \$2,250.00, due on the first day of each month. The Parties agreed that the Tenant paid the Landlords a security deposit of \$1,125.00, and no pet damage deposit. The Landlord said he still holds the security deposit in full.

In the hearing, the Landlord confirmed the details of the Two Month Notice, noting that it was signed and dated December 20, 2022, and it has the rental unit address. The Landlord said the Two Month Notice was served via email and text to an address the Tenant provided as an address for service on December 20, 2022, with an effective vacancy date of March 1, 2023. The Landlord said it was also served by registered mail on December 21, 2022, and he provided the Canada Post tracking number as evidence of service. The Two Month Notice was served on the grounds that the rental unit will be occupied by the Landlord or the Landlord's close family member (the Landlord and the Landlord's spouse in this case).

In the hearing, the Tenant acknowledged receipt of the Two Month Notice; however, he did not apply for dispute resolution to dispute this Notice.

Analysis

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

Based on the documentary evidence and testimony before me for consideration, and pursuant to section 90 of the Act, I find that the Tenant was deemed served with the Two Month Notice by email on December 23, 2022, three days after it was emailed

to him. Section 47 (9) of the Act states that if a tenant who has received a Two Month Notice does not apply for dispute resolution within 15 days after the date the tenant receives the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

As there is no evidence before me that the Tenant disputed the Two Month Notice through the RTB, I find that he is conclusively presumed under section 49 (9) of the Act to have accepted the Two Month Notice. I find that the tenancy, therefore, ended on March 1, 2023. As a result, I find that the Tenant is overholding the rental unit and the Landlord is therefore entitled to an Order of Possession pursuant to section 55 (2) (b) of the Act. As the effective date has passed and the Landlord testified that rent for February and March have not been paid, the Order of Possession will therefore be effective two days after service on the Tenant.

Conclusion

The Landlords are successful in their Application, as they provided sufficient evidence to meet their burden of proof in this matter. Pursuant to section 55 of the Act, I grant an **Order of Possession** to the Landlords effective **two days after service of this Order** on the Tenant. The Landlords are provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible.

Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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: May 11, 2023

Residential Tenancy Branch