



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

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DECISION

Dispute Codes: CNC OLC OPL MNRL-S FFL

Introduction

The tenants sought various relief under the *Residential Tenancy Act* (the “Act”).

The landlords sought various relief under the Act.

For the reasons set out below, the landlords’ claims for relief are granted, and the tenants’ application is dismissed.

Issues

1. Are the landlords entitled to an order of possession based on a *Two Month Notice to End Tenancy for Landlord’s Use of Property*?
2. Are the landlords entitled to a monetary order for unpaid rent?
3. Are the landlords entitled to recover the cost of the application fee?

Evidence and Analysis

In a dispute resolution proceeding, the applicant must prove their claim on a balance of probabilities (meaning “more likely than not”). I have considered the parties’ testimony, arguments, submissions, and documentary evidence, but will only refer to evidence that I find relevant and necessary to explain the decision.

The tenancy began on October 1, 2022. Monthly rent, which is due on the first day of the month, is \$1,800.00. The tenants paid a \$900.00 security deposit.

On April 28, 2023, the landlords served the tenants with a *One Month Notice to End Tenancy for Cause*. A copy of that notice is in evidence, and it is for that notice to end tenancy which the tenants filed an application to dispute.

On May 17 or May 18, 2023, the landlords served the tenants with a *Two Month Notice to End Tenancy for Landlord's Use of Property* (the "Notice"). A copy of that Notice was in evidence. The tenants did not file an application to dispute the Notice, nor did they file any amendment to their existing application to dispute the Notice.

The tenants had up to fifteen days after receiving the Notice to either dispute the Notice or file an amendment to this application to dispute the Notice (see section 49(8) of the Act). They did neither. Pursuant to section 55(2)(b), because the tenants did not dispute the Notice, the landlords are thus entitled to an order of possession of the rental unit.

The landlords are granted an order of possession, a copy of which is issued with this Decision to the landlords. The landlords (or their lawyer or agent) must serve a copy of the order of possession upon the tenants by any manner permitted under section 88 of the Act.

Having considered the parties' submissions regarding the effective date of possession, it is my conclusion that the landlords' request for a one-week effective date to be necessary and most appropriate in the circumstances. The tenants have, by all accounts, removed almost everything from the rental unit, and can vacate within a matter of days. Second, the tenants have not paid any rent since April 2023, and I see no sense in permitting them to have occupancy beyond a week from today.

Therefore, the order of possession will have an effective date of September 7, 2023, at 1:00 p.m. The tenancy is ordered ended on this date. The order of possession may be filed and enforced in the Supreme Court of British Columbia.

The landlords seek \$9,150.00 in unpaid rent. The tenants did not dispute that they owe this amount. Therefore, I am inclined to grant the landlords' claim for this amount of unpaid rent, along with the landlords' claim for the cost of the application fee.

Pursuant to sections 26, 67, and 72 of the Act the landlords are awarded \$9,250.00. Because I cannot award compensation for future (unpaid) rent, the award does not reflect any rent that may become due and payable on September 1, 2023. However, the landlords remain at liberty to file a new application for dispute resolution should they seek additional compensation for any future unpaid rent.

Under section 38(4)(b) of the Act the landlords are ordered and authorized to retain the tenants' security deposit of \$900.00 in partial satisfaction of the award. The balance of the award, \$8,350.00, is granted by way of a monetary order.

A copy of the monetary order is issued with this decision to the landlords, and the landlords must serve a copy of the monetary order upon the tenants. A copy of the monetary order may be filed and enforced in the Provincial Court of British Columbia.

Given the outcome of the landlords' application, the matter concerning the *One Month Notice to End Tenancy for Cause* is moot, and the tenants' application is dismissed in its entirety without leave to reapply.

Conclusion

The tenants' application is dismissed without leave to reapply.

The landlords' application is granted, the tenancy is ordered ended effective September 7, 2023, and the landlords are granted a monetary order.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: August 31, 2023

Residential Tenancy Branch