



DECISION

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- an Order of Possession based on a Two Month Notice to End Tenancy for Landlord's Use of Property (the Two Month Notice) under sections 49 and 55 of the Act

Landlord R.R. attended the hearing for the landlord.

No one attended the hearing for the tenant.

Service of Notice of Dispute Resolution Proceeding and Evidence (Proceeding Package)

- I find that Tenant M.W. was served on June 17, 2023, in person in accordance with section 89(1) of the Act. The landlord and a witness signed the Proof of Service form to confirm this service.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the Two Month Notice?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on October 15, 2014, with a monthly rent of \$800.00 and a \$342.50 security deposit.

The Landlord testified that he wishes to occupy the rental unit and as such issued the Two Month Notice on May 14, 2023. He personally served the Tenant with the Notice on May 15, 2023; again he provided a Proof of Service form confirming this service.

The Landlord further testified that the Tenant failed to apply to dispute the Notice within 15 days of being served.

Analysis

Is the landlord entitled to an Order of Possession based on the Two Month Notice?

Sections 49(3) and (5) of the Act states that a landlord may issue a Two Month Notice when the landlord or a close family member intends in good faith to occupy the rental unit or the landlord sells the rental unit and the purchaser asks the landlord in writing to give notice to end tenancy as they or their close family member intend on occupying the rental unit.

Sections 49(8) and (9) of the Act states that a tenant who has received a notice under this section, who does not make an application for dispute resolution within 15 days after the date the tenant receives the notice, 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.

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find the tenant did not make an application under section 49(8) of the Act within 15 days of receiving the Two Month Notice. In accordance with section 49(9) of the Act, due to the failure of the tenant to take this action within 15 days, I find the tenant is conclusively presumed to have accepted that the tenancy ended on July 31, 2023, the effective date on the Two Month Notice.

Therefore, I find that the landlord is entitled to an Order of Possession based on a Two Month Notice to End Tenancy for Landlord's Use of Property (the Two Month Notice) under sections 49 and 55 of the Act. The Landlord must served the Order of Possession on the Tenant.

Conclusion

I grant an Order of Possession to the landlord **effective two (2) days after service of this Order on the tenant(s)**. Should the tenant(s) or anyone on the premises 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: September 12, 2023

Residential Tenancy Branch