

DECISION

Dispute Codes Landlord: OPL, MNRL-S, MNDL-S, FFL
Tenant: CNL, MNDCT, FFT

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the Residential Tenancy Act (the Act).

The Landlord's application was made on October 3, 2023. The Landlord applied for the following relief pursuant to the Act:

- an order of possession based on a Two Month Notice to End Tenancy for Landlord's Use of Property, dated August 22, 2023 (the Two Month Notice);
- a monetary order for unpaid rent and/or utilities;
- a monetary order requiring the Tenants to pay for damage caused during the tenancy;
- an order allowing the Landlord to retain all or part of the security deposit or pet damage deposit; and
- an order granting recovery of the filing fee.

The Tenants' Application was made on September 11, 2023. The Tenants applied for the following relief pursuant to the Act:

- an order cancelling the Two Month Notice;
- an order granting compensation for monetary loss or other money owed;
- an order granting recovery of the filing fee.

The Landlord attended the hearing and was accompanied by HD, his spouse. LRF attended the hearing on behalf of the Tenants. All in attendance provided affirmed testimony.

On behalf of the Landlord, HD testified that the Notice of Dispute Resolution Proceeding package relating to the Landlord's application was served on the Tenants by registered mail. LRF acknowledged receipt of these documents on behalf of the Tenants.

On behalf of the Tenants, LRF testified that the Notice of Dispute Resolution Proceeding package relating to the Tenants' application was served on the Landlord by in person. HD acknowledged receipt of these documents on behalf of the Landlord.

Neither party raised any issues with respect to service or receipt of the above documents during the hearing. The parties were in attendance or were represented at the hearing and were prepared to proceed. Pursuant to section 71 of the Act, I find the above documents were sufficiently served for the purposes of the Act.

The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter is described in this decision.

The parties were advised that Rule of Procedure 2.2 permits an arbitrator to dismiss unrelated claims with or without leave to reapply. In this case, I find the parties' requests relating to the Two Month Notice are unrelated to their monetary claims. Therefore, I exercise my discretion to dismiss the parties' monetary claims, with leave to reapply.

Issues to be Decided

1. Is the Landlord entitled to an order of possession based on the Two Month Notice?
2. Is the Landlord entitled to recover the filing fee?
3. Are the Tenants entitled to an order cancelling the Two Month Notice?
4. Are the Tenants entitled to recover the filing fee?

Background and Evidence

The parties agreed the tenancy began in or about 2010. Currently, rent of \$1,734.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$700.00 which the Landlord holds.

On behalf of the Landlord, HD testified the Two Month Notice was served on the Tenants by registered mail on August 23, 2023. Copies of Canada Post registered mail receipts showing the date and time of service were submitted in support. LRF testified that the Two Month Notice was received on September 8, 2023.

The Two Month Notice was issued on the basis that the rental unit will be occupied by the Landlord's child. On behalf of the Landlord, HD testified that their daughter has recently completed her residency to become a doctor and wants to live separately from the Landlord.

In reply, LRF confirmed he does not dispute that the Landlord's daughter will occupy the rental unit. However, he stated that he deserves more time due to the length of the tenancy and his treatment of the rental unit.

Analysis

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

Section 49 of the Act permits a landlord to take steps to end a tenancy if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

In this case, I find that the Landlord has established that his daughter will be occupying the rental unit. This was not disputed by LRF. As a result, I find that the Landlord is entitled to an order of possession, which will be effective on November 30, 2023, at 1:00 p.m.

As the Landlord has been successful, I find the Landlord is entitled to recover the filing fee paid to make the Landlord's application. I order that \$100.00 may be deducted from the security deposit held in recovery of the filing fee.

The Tenants' request for an order cancelling the Two Month Notice and to recover the filing fee are dismissed without leave to reapply.

Conclusion

The Landlord is granted an order of possession which will be effective on November 30, 2023, at 1:00 p.m. The order may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord may deduct \$100.00 from the security deposit held in recovery of the filing fee.

The Tenants' requests for orders cancelling the Two Month Notice and to recover the filing fee are dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: November 10, 2023

Residential Tenancy Branch