

## **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 (Two Month Notice) under sections 49 and 55 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

and the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under sections 46 and 55 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package)**

I find that the Landlord(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

Based on the submissions before me, I find that the Landlord's Proceeding Package was served to the Tenant in accordance with the Act.

### **Service of Evidence**

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

### **Issues to be Decided**

**Is the Landlord entitled to an Order of Possession based on the Two Month Notice to End Tenancy?**

**Is the Landlord entitled to recover the filing fee for this application from the Tennant?**

**Should the Landlord's 10 Day Notice be cancelled?**

**Is the Tennant entitled to recover the filing fee for this application from the Landlord?**

## **Facts and Analysis**

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

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

The Landlord provided a copy of a Two Month Notice signed November 16, 2023, with a move out date of January 31, 2024. The reason provided is the child of the Landlord, or their spouse will occupy the rental unit.

The Landlord's agent affirms the Two Month Notice was posted on the Tenant's door on November 16, 2023. The Landlord's agent further affirms that all the other tenants vacated the rental unit after receiving the Two Month Notice.

The Landlord's agent affirms the tenancy ended on January 31, 2024, and the Tenant is overholding.

As the Tenant did not file an application to dispute the Two Month Notice which complies with section 52 of the Act, I find that the tenancy ended on January 31, 2024, and that the Landlord is entitled to an Order of Possession under section 49 and 55 of the Act.

**Is the Landlord entitled to recover the filing fee for this application from the Tennant?**

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

**Should the landlord's 10 Day Notice be cancelled?**

As the Landlord is being given an Order of Possession because of the Two Month Notice, this issue was not adjudicated and is dismissed, without leave to reapply. This

does not preclude the Landlord from seeking compensation from the Tenant for overholding past the date the tenancy ended.

**Is the Tennant entitled to recover the filing fee for this application from the Landlord?**

As the Tenant was not successful in this application, the Tenant's application for authorization to recover the filing fee for this application from the Landlord under section 72 of the Act is dismissed, without leave to reapply.

**Conclusion**

I grant an Order of Possession to the Landlord **effective at 1:00 PM on April 30, 2024, 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.

I grant the Landlord a Monetary Order in the amount of **\$100.00** under the following terms:

Monetary Issue	Granted Amount
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
<b>Total Amount</b>	<b>\$100.00</b>

The Landlord may retain the amount of the Monetary Order from the tenant's security deposit as full satisfaction of the monetary order.

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: April 24, 2024

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Residential Tenancy Branch