



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

Page: 1

DECISION

Introduction

The Tenants filed an application under the *Residential Tenancy Act* (the “Act”) seeking orders to cancel three notices to end tenancy, an order for repairs, an order for compliance, and an order to recover the cost of their application fee.

The Landlord also filed an application under the Act seeking an order of possession on one of the three notices and an order to recover the cost of their application fee.

Both applications were set down for a dispute resolution hearing on June 25, 2024, at 11:00 AM. The hearing lasted ten minutes, during which time the Landlord’s agent provided affirmed testimony and submissions. The Tenants did not attend the hearing.

Issue

Is the Landlord entitled to an order of possession based on a *Two Month Notice to End Tenancy for Landlord’s Use of Property* (the “Notice”)?

Evidence and Analysis

The Landlord’s agent provided the following affirmed oral evidence, which was supported by documentary evidence, consisting of a copy of the Notice along with proof of service documentation.

The Tenants were served with the Notice on April 17, 2024. Service was completed by the Notice being placed in the Tenants' mailbox. This is an approved method of service under section 88 of the Act.

The Notice was given under section 49(5) of the Act, and this is indicated as such on page 2 of the Notice. The Landlord's agent testified that the reason for the Notice is that it was issued under section 49(5) of the Act. The purchaser intends in good faith to occupy the rental unit, the conditions of sale have been met, and the selling Landlord has entered into an agreement with the purchaser in good faith to sell the rental unit.

A notice to end tenancy issued under this section may be disputed within 15 days after the tenant receives the notice (section 49(8)(a) of the Act). If the deeming provision is calculated into the 15-day period, the Tenants had until May 6, 2024, to file their application to dispute the Notice, which they appeared to have done. It should be noted that if the deadline for filing an application for dispute resolution falls on a weekend, that deadline is extended to the next business day.

In an application where a tenant disputes a notice to end tenancy, the landlord must prove the reason for issuing the notice to end tenancy on a balance of probabilities. Stated another way, the evidence must show that the events in support of the reason for issuing the notice to end tenancy were more likely than not to have occurred.

Having considered the undisputed, affirmed testimony and supporting documentary evidence of the Landlord, it is my finding that the Notice was issued under a valid ground pursuant to section 49(5) of the Act. Further, having reviewed the Notice, it is my finding that it complies with form and content requirements under section 52 of the Act.

Given the above, the Tenants' application to dispute the Notice is dismissed and the Landlord's application for an order of possession is granted.

An order of possession with an effective date of September 30, 2024, is granted and issued with this decision to the Landlord. The Landlord must serve a copy of the order of possession upon the Tenants as soon as possible.

Having upheld the Notice, I make no findings regarding the two remaining notices to end tenancy, which the Landlord has chosen not to pursue.

Regarding the Tenants' claims for orders for repairs and compliance, the Tenants did not attend the hearing to present evidence or provide affirmed testimony. Thus, I am not prepared to consider those claims, and they are dismissed. The Tenants' claim to recover their application fee is also dismissed.

The Landlord is entitled to recover the cost of the application fee under section 72 of the Act. At the conclusion of the tenancy the Landlord may retain \$100.00 of the Tenants' security deposit to pay for the cost of the application fee.

Conclusion

The Tenants' application is dismissed.

The Landlord's application is granted. An order of possession is granted to the Landlord, who must serve a copy upon the Tenants. At the request of the Landlord, the order of possession shall have an effective date of September 30, 2024.

Dated: June 25, 2024

Residential Tenancy Branch