



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, OPB, FFL

Introduction

This hearing dealt with a landlords' Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") to obtain an Order of Possession based on an undisputed 2 Month Notice to End Tenancy for Landlord's Use of Property dated September 7, 2018 ("2 Month Notice"), for an order of possession based on a breach of an agreement, and to recover the cost of the filing fee.

The landlords appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlords were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), application and documentary evidence were considered. The landlords provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the tenant personally at the rental unit with a witness on October 1, 2018. The landlords stated that they had a signed Proof of Service document in support of this. The landlords also stated that the tenant accepted the package from the landlords and that the landlords live upstairs and that the tenant lives in the basement of the home. Based on the landlords' undisputed testimony I accept that the tenant was duly served on October 1, 2018 as noted above.

As the tenant did not attend the hearing, I consider this application to be unopposed by the tenant.

Preliminary and Procedural Matter

The landlords confirmed their email address at the outset of the hearing. The landlords also confirmed their understanding that the decision would be emailed to them along with any applicable orders. The tenant will be sent the decision by regular mail as an email address for the tenant was not listed in the application.

Issues to be Decided

- Are the landlords entitled to an order of possession under the *Act*?
- Are the landlords entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on December 1, 2017 and is scheduled to either revert to a month to month tenancy or a new fixed-term tenancy after November 30, 2018. Monthly rent of \$1,250.00 is due on the first day of each month and the tenant paid a security deposit of \$625.00 at the start of the tenancy which the landlords continue to hold.

The landlords testified that the 2 Month Notice was personally served on the tenant at the rental unit on September 11, 2018 and submitted a signed Proof of Service document in evidence which includes the signature of the tenant and the landlords in support of successful service.

The 2 Month Notice indicates an effective vacancy date of November 30, 2018 and includes the reason on page two as:

“The rental unit will be occupied by the landlord or the landlord’s close family member (parent, spouse or child; or the parent or child of that individual’s spouse).”

The landlords stated that the tenant has not disputed the 2 Month Notice and remains in the rental unit and are seeking an order of possession effective November 30, 2018 at 1:00 p.m.

Analysis

Based on the undisputed documentary evidence and unopposed testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession - I find that the tenant was served with the 2 Month Notice on September 11, 2018 personally at the rental unit by the landlords which is supported by the Proof of Service document submitted in evidence. The tenant did not dispute the 2 Month Notice. Pursuant to section 49 of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy will end on the effective vacancy date of the 2 Month Notice which is November 30, 2018 at 1:00 p.m. I find the 2 Month Notice complies with section 52 of the *Act*.

The tenant continues to occupy the rental unit. Pursuant to section 55 of the *Act*, I grant the landlords an order of possession **effective November 30, 2018 at 1:00 p.m.** I find the tenancy ends on that date, November 30, 2018 at 1:00 p.m.

Pursuant to section 72 of the *Act*, as the landlords' application was successful, I grant the landlords **\$100.00** for the recovery of the cost of the filing fee. **I authorize** the landlords to retain \$100.00 from the tenant's security deposit of \$625.00 in full satisfaction of the recovery of the cost of the filing fee. As the amount of the tenant's security deposit was previously \$625.00, I find the new balance of the tenant's security deposit is \$525.00 effective immediately.

Conclusion

The landlords' application is fully successful.

The tenancy ends on November 30, 2018 at 1:00 p.m.

The landlords are granted an order of possession effective November 30, 2018 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlords have been authorized to retain \$100.00 from the tenant's security deposit in full satisfaction of the recovery of the cost of the filing fee. The tenant's security deposit balance is now \$525.00.

This decision and the order of possession will be emailed to the landlords as indicated above and the decision will be sent by regular mail to the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 9, 2018

Residential Tenancy Branch