



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPL OPN MNR MNSD FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for landlord's use of property pursuant to section 55;
- an order of possession based on tenant's written notice to end tenancy pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:12 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on October 3, 2018, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. A registered mail receipt and tracking number was provided in support of service.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

In the hearing, the landlord advised that he was only seeking an order of possession and withdrew the monetary aspects of this application.

Issues

Is the landlord entitled to an order of possession for landlord's use of property (the "2 Month Notice")?

Background and Evidence

The tenancy began on May 1, 2016 with a monthly rent of \$1300.00 payable on the 1st day of each month.

The landlord testified that on May 31, 2018 the tenant was personally served with the 2 Month Notice. The landlord testified that the notice was served to the tenant's mother who resides with the tenant and that the tenant was in the bathroom at the time of service.

Analysis

I am satisfied that an adult who resides with the tenant was personally served with the 2 Month Notice on May 31, 2018 pursuant to section 88 of the Act. I find the 2 Month Notice complies with the form and content requirements of section 52 of the Act.

Pursuant to section 49 of the *Act*, the tenant may make a dispute application within fifteen days of receiving the 2 Month Notice. If, as in the present case, the tenant does not make an application for dispute within fifteen days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, July 31, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant 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: November 13, 2018

Residential Tenancy Branch