



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPL, FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied for an order of possession of the rental unit pursuant to a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice/2 Month Notice) issued to the tenant, and recovery of the cost of the filing fee.

The landlord and their interpreter/agent attended the hearing; the tenant did not attend. The landlord and interpreter was affirmed for the hearing.

The landlord, through their agent, stated they served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by attaching it to the tenant's door on December 10, 2022. The landlord filed the signed proof of service.

I accept the landlord's evidence and find that the tenant was served notice of this hearing in a manner complying with section 89(2)(d) of the Act. The hearing proceeded in the tenant's absence.

The landlord and agent were provided the opportunity to present their evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details

of the submissions are reproduced here; further, only the evidence specifically relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to the Notice and to recover the cost of the filing fee?

Background and Evidence

The landlord submitted that the tenancy began on November 1, 2021 and the monthly rent is \$1,380.

As to the 2 Month Notice, the landlord submitted that they served the Notice to the tenant on September 26, 2022, by attaching it to the tenant's door.

The Notice filed in evidence by the landlord shows a signed date of September 26, 2022, for an effective move-out date of November 30, 2022. The reason listed on the Notice for ending the tenancy was that the rental unit will be occupied by the child of the landlord or landlord's spouse.

The landlord testified that their adult daughter intends on moving into the rental unit when the tenancy is over as she needs her own space.

Analysis

The Notice served on the tenant sets out that the tenant had fifteen (15) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenant did not file such an application within 15 days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice, in this case, November 30, 2022.

The landlord provided undisputed evidence that they served the tenant with the Notice on September 26, 2022, by attaching it to the tenant's door. The Act provides that the

tenant is deemed to have received the document three days later, or in this case, September 29, 2022.

I have no evidence that the tenant filed an application for dispute resolution to dispute the Notice within the required time.

As such, I therefore find the tenant is conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I have reviewed the Notice and find it was completed in accordance with section 49 of the Act. I also find the Two Month Notice was completed in the approved form and the content meets the statutory requirements under section 52 the Act.

I have reviewed the landlord's undisputed evidence and find they had sufficient reason to end the tenancy based on their adult daughter moving into the rental unit. I therefore order the tenancy ended on November 30, 2022, the effective date of the Notice.

As a result, I find the landlord is entitled to an order of possession (Order) of the rental unit, pursuant to section 55 (2) of the Act, effective two (2) days after service on the tenant.

If the tenant fails to voluntarily comply with the Order, the Order must be served on the tenant to be enforceable. The Order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court if it becomes necessary.

The tenant is cautioned that costs of such enforcement, **such as bailiff costs and filing fees**, are recoverable from the tenant.

I find the landlord is entitled to recover the costs of their filing fee, due to the successful application. I grant the landlord a monetary order in the amount of \$100.

If the landlord collected a security deposit from the tenant, they may deduct \$100 to satisfy their monetary award, if they so choose. If they make such a deduction, the monetary order is void and of no force or effect.

Conclusion

The landlord's application is granted and they have been issued an order of possession of the rental unit, effective two days after service on the tenant.

The tenancy was ordered ended on November 30, 2022.

The landlord is awarded recovery of their filing fee of \$100 and is given a monetary order in that amount.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 17, 2023

Residential Tenancy Branch