

DECISION

Dispute Codes

OPQ, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession and a Monetary Order to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on May 28, 2010. Mail receipt numbers were provided by the landlords' agent in evidence. The tenant was deemed to be served the hearing documents on June 02, 2010 the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords agent and her witness appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to an Order of Possession as the tenant no longer qualifies for subsidized housing?

Background and Evidence

This month to month tenancy started on August 01, 2009. The tenant pays a subsidized rent of \$362.00 per month which is paid on the first of each month. The tenant paid a security deposit of \$350.00 on or about August 01, 2009.

The landlords' agent testifies that the tenant rents a two bedroom unit and was residing with her son. The tenant or guests of the tenant disturbed other tenants by creating loud noise and having parties. The Police were called on many occasions and eventually social services

stepped in and the tenants' son was removed from her care. The landlords' agent testifies that she explained to the tenant that she had been given subsidized housing for her and her son in the two bedroom unit. If her son was not returned by social services the tenant would no longer qualify for this two bedroom rental unit.

The landlords' agent testifies that the tenants' son has not been returned to the tenants care and she was served with a Two Month Notice to End Tenancy on March 25, 2010. The reason stated on this notice was that the tenant no longer qualifies for the subsidized rental unit. Page two of the Notice states that the tenant had 15 days to apply to dispute the Notice. There is no evidence before me that the tenant has disputed the Two Month Notice.

Analysis

In the absence of any evidence to the contrary, I find that the tenant received a Two Month Notice to End Tenancy pursuant to s.49.1 of the Act which required the tenant to vacate the rental unit on or before May 25, 2010.

Section 49.1 (6) of the *Act* stipulates that a tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice received. The tenant must vacate the rental unit by this date unless she disputes the notice within 15 days of receiving the Notice. However the date of the Notice did not give the tenant two clear months to vacate the rental unit as stipulated under section 49.1(3) therefore the effective date of the notice is amended to May 31, 2010 pursuant to section 53 of the *Act*.

As there is no evidence that the tenant filed an application to dispute the Notice, I find the tenant has accepted that the tenancy ends on the amended date of the Notice being May 31, 2010. On this basis I grant the landlord an Order of Possession to take effect two days after service on the tenant.

I further find as the landlord has been successful with their application, that the landlord is entitled to recover the filing fee of **\$50.00** paid for this application from the tenant.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days after service** on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$50.00**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: July 14, 2010.

Dispute Resolution Officer