



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes O, FF

Introduction

This matter dealt with an application by the landlord to obtain an Order of Possession. During the hearing the landlords agent withdrew their application to recover the filing fee.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and were sent by registered mail to the tenant on September 22, 2010. The tenant confirmed receipt of the hearing documents.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

Both parties agree that this month to month tenancy started on January 01, 2008. A written tenancy agreement is in place and the tenant pays a subsidized rent of \$569.00 per month which is due on the first of each month.

Residential Tenancy Branch
Ministry of Housing and Social Development

The landlords' agent testifies that the tenant was served a One Month Notice to End Tenancy for cause dated June 18, 2010 with an effective date of July 31, 2010. He states the tenant was given an extension of this Notice and the tenant sent a Notice to the landlord that she would end the tenancy on August 31, 2010. The landlords' agent states the tenant paid rent for August which was accepted for use and occupancy only due to the extension of the One Month notice.

The landlord seeks to have the tenants Notice upheld and seeks an Order of Possession to take effect on November 15, 2010.

The tenant agrees that she did ask the landlord for an extension to the One Month Notice and that she had agreed to move from the rental unit on August 31, 2010. However the tenant states she has found it difficult to find alternative accommodation for herself and her three children.

The tenant agrees that she did not dispute the One Month Notice within the 10 days after she received it.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. Section 47 (4) and (5) of the *Residential Tenancy Act (Act)* says that a tenant may dispute a Notice given under this section(cause) by making an application to dispute it within 10 days after the date the tenant receives the Notice. If a tenant does not dispute the notice in accordance with subsection (4) the tenant is conclusively presumed to accepted that the tenancy ends on the effective date of the Notice.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

In this instance I find the tenant was granted an extension of the Notice by the landlord and as such agreed in writing to move from the rental unit on August 31, 2010. The tenant failed to move out as agreed and therefore I find the landlord is entitled to an Order of Possession. The landlord has agreed to extend the time again for the tenant to vacate the rental unit to give her more time to find alternative accommodation.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective on November 15, 2010. This order must be served on the Respondent and may be filed in the Supreme Court and enforced 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: October 26, 2010.

Dispute Resolution Officer