



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for landlord's use of property. The landlord attended the conference call hearing and gave affirmed testimony. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on May 4, 2011, the tenants did not attend. All evidence and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for landlord's use of property?

Background and Evidence

The landlord testified that this month-to-month tenancy began on February 1, 2010 and the tenants still reside in the rental unit. Rent in the amount of \$750.00 per month is payable in advance on the 1st day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenants in the amount of \$375.00.

The landlord further testified that he has sold the rental unit and the purchasers requested that he serve the tenants with notice to vacate the premises, but the purchasers did not put it in writing, and the tenants have not moved out despite being served with a notice to end tenancy on February 28, 2011. The landlord did not provide a copy of that notice in advance of the hearing.

The landlord further testified that on April 1, 2011 the tenants paid the rent for the month of April, but the landlord gave them back \$200.00 as a loan. During the month of November, 2010 the tenants only paid half the rent and the landlord agreed to apply the security deposit to the other half due to the landlord.

The purchasers have taken possession of the rental unit, and the landlord did not provide the tenants with the equivalent of one month of rent, although he has loaned the tenants money from time-to-time that was never paid back.

Analysis

The *Residential Tenancy Act* states that a landlord may serve a tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property once all of the conditions upon which a sale of the property have been satisfied, and if the purchasers request in writing that the notice be served. In this case, the purchasers did not request it in writing, and the landlord served the notice, but did not provide a copy, and the purchasers have taken possession of the unit. Therefore, the landlord's application cannot succeed under the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, the landlord's application is hereby dismissed.

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: May 16, 2011.

Residential Tenancy Branch