



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

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

Service of the hearing documents, by the landlords to the tenants, was done in accordance with section 89 of the *Act*, and was posted to the tenant's door. The tenants are deemed to be served the hearing documents on the third day after they were mailed as per section 90(a) of the *Act*.

The landlords agent 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 tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession based on the reason given in the Two Month Notice to End Tenancy?

Background and Evidence

The landlords' agent testifies that this month to month tenancy started on January 01, 2011. The rent for this unit is \$900.00 per month and is due on the first day of each month.

The landlords' agent testifies that she served the tenants with a Two Month Notice to End Tenancy and gave the reason on this Notice that the rental unit will be occupied by the landlord or the landlords spouse or a close family member of the landlord or the landlords' spouse. The landlords' agent testifies that the Notice was served on March 21, 2011 by posting it to the tenant's door and it has an effective date of May 31, 2011. The landlords' agent states the tenants asked for more time to find alternative accommodation and the landlord agreed they could have another month in the unit and the date to vacate has been extended to June 30, 2011. The landlords' agent testifies that the tenants received two months free rent in compensation for this Notice to help the tenants with their moving expenses and the tenant paid rent for the additional month of June, 2011 which was accepted for use and occupancy only.

The landlords' agent indicates when she filed this application on behalf of the landlords they had concerns that the tenants would not move out. The landlords' agent states the landlords daughter and her family are coming to move into the landlords upper unit on July 01, 2011 and the landlords will require vacant possession of the tenants basement unit by then so they can move into it.

The landlords seek an Order of Possession that is effective on July 01, 2011 and seeks to recover their filing fee of \$50.00.

Analysis

I find the landlord served the tenants with a Two Month Notice to End Tenancy pursuant to s. 49 of the Act. This Notice states that the tenants have 15 days to dispute the Notice or the tenancy will end on the date set out on the Notice. In this instance the landlord served the Notice on March 21, 2011 by posting it to the door of the rental unit. Therefore, this notice is deemed to have been served on March 24, 2011. The landlord's agent testifies that the landlord has extended the effective date of the Notice to June 30, 2011.

I find the tenants did not dispute the notice within 15 days and have not appeared at the hearing to offer any evidence. Based on the foregoing, I find that the tenants are conclusively presumed, under section 49(9)(a) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession pursuant to s. 55 of the *Act*.

I further find that at the time of filing their application the landlords reasonable believed that the tenants were not making attempts to find alternative accommodation and that they may require an Order of Possession. Therefore I find the landlords are entitled to recover their **\$50.00** filing fee from the tenants pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective on **July 01, 2011**. This order must be served on the Respondents and may be filed in the Supreme Court and enforced as an order of that Court.

A copy of the landlord's decision will be accompanied by a Monetary Order for **\$50.00** for the cost of filing this application. The order must be served on the Respondents 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: June 14, 2011.

Residential Tenancy Branch