



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, MNR, FF

Introduction

This hearing dealt with an application submitted by the landlord seeking an Order of Possession based on the One-Month Notice to End Tenancy for Cause dated May 31, 2011 and effective June 30, 2011. The landlord was also requesting a monetary order for unpaid rent.

Both parties appeared and gave testimony during the conference call.

Issue(s) to be Decided

The issue to be determined on the landlord's application, based on the testimony and the evidence was whether the landlord is entitled to an Order of Possession based on the One-Month Notice to End Tenancy for Cause.

Background and Evidence Notice to End Tenancy

The landlord testified that the tenancy started on April 1, 2011 and the current rent is \$725.00. The landlord testified that a One-Month Notice to End Tenancy for Cause was issued to the tenant based on the following:

(d) the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- (iii) put the landlord's property at significant risk;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

- (i) has caused or is likely to cause damage to the landlord's property,

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

The landlord testified that the tenant did not dispute the Notice, but has not vacated.

One of the two co-tenants appeared and testified that he has moved out of the unit and supports the termination of the tenancy.

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Analysis

Section 47 of the Act, states that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

If a tenant who has received a notice under section 47 fails to make an application for dispute resolution to dispute the Notice, the tenant:

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

Regardless of whether or not the merit of the One-Month Notice to End Tenancy for Cause would be found sufficient to support a termination of the tenancy, the fact is that the tenant had failed to dispute the Notice by making an application for dispute resolution within the statutory deadline to do so.

In this instance, the tenant would have been required to file an application to dispute the May 31, 2011 Notice on or before June 10, 2011 to meet the statutory deadline. The tenant did not make any formal application to dispute the notice at all.

I find that, as the tenant failed to make an application to dispute the One-Month Notice, the landlord is entitled to an immediate Order of Possession based on the Notice.

Conclusion

Pursuant to the Act, I hereby grant the landlord an Order of Possession effective immediately and the tenant is required to move out forthwith. This order is final and binding. It must be served on the tenant and if necessary may be filed in the Supreme Court to be enforced as an order of that Court.

The landlord's application for monetary compensation is dismissed with leave to reapply.

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 13, 2011.

Residential Tenancy Branch