



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with the landlord's application for an order of possession. Both parties participated in the conference call hearing.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord testified that on May 2, 2011, she personally served a one month notice to end tenancy (the "Notice") on the tenant's adult daughter, who resides with the tenant at the rental unit. At the outset of the hearing the tenant acknowledged having received the Notice, but later testified that she had not received it and that her daughter had not mentioned it to her.

Analysis

I find it more likely than not that the tenant received the Notice on May 2 as her testimony on this point was inconsistent and therefore unreliable. While it may be possible that her daughter did not tell her about the Notice, the Act provides that service on the adult daughter is effective. Section 47(5) of the Act provides that a tenant who receives a notice to end tenancy for cause has 10 days in which to dispute the notice, failing which the tenant is conclusively presumed to have accepted that the tenancy ended. I find that the Notice is effective to end the tenancy.

Although the landlord accepted rent for the months of July and August, I find that the tenancy was not reinstated as the parties agreed that they both knew the tenancy was ending pursuant to the Notice.

I grant the landlord an order of possession effective August 31, 2011. The tenant must be served with the order and if she fails to comply with the order, it may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession.

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: August 03, 2011

Residential Tenancy Branch