



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF, O

Introduction

This matter dealt with an application by the landlord to obtain an Order of Possession for cause, other issues and to recover the filing fee.

Service of the hearing documents was done in accordance with section 89 (2) of the *Act*, and was posted to the tenants door on September 15, 2011. The tenant was deemed to be served the hearing documents on the third day after they were posted as per section 90(a) of the *Act*.

The landlords agent appeared, gave sworn testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, 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 reasons given in the One Month Notice to End Tenancy for cause?

Background and Evidence

Both parties agree that this tenancy started on November 01, 2009. The tenant pays a subsidized monthly rent of \$461.00 which is due on the first day of each month. The tenant paid a security deposit of \$450.00 on October 15, 2009.

The landlord testifies she served the tenant with a One Month Notice to End Tenancy in person on August 24, 2011. This Notice has an effective date of September 30, 2011 and gives the following reason to end the tenancy:

- 1) The tenant is repeatedly late paying rent.

The landlord testifies the tenant has been repeatedly late paying rent. She states she has been late with her rent seven times this year and six ten 10 Notices to End Tenancy have been served upon the tenant. The tenant failed to pay rent for September, 2011 until September 02, 2011 and this was accepted for use and occupancy only. The tenant has also been given warning letters and a breach letter concerning her late rent payments.

The One Month Notice to End Tenancy states the tenant has 10 days to file an application to dispute the Notice. It also states if the tenant does not dispute the Notice she is presumed to accept the Notice and must move out of the rental unit. The tenant has not disputed the Notice but did send the landlord a letter stating she will vacate the rental unit on October 31, 2011. The landlords' agent testifies she has accepted this extended date for the tenant to move out and seeks an Order of Possession effective for October 30, 2011.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. I find that the tenant did not dispute the Notice within the 10 days allowed as indicated on page two of the One Month Notice to End Tenancy pursuant to s. 47(4) of the *Act*. The Notice was served to the tenant in person on August 24, 2011 therefore the tenant had until August 03, 2011 to dispute the Notice. I further find the tenant has been

repeatedly late paying her rent. As the tenant did not dispute the Notice and the landlord has established the reason given on the Notice the tenant is considered to have accepted the Notice pursuant to s. 47(5) of the *Act*. The landlord has extended the date on which the tenant must vacate the rental unit; therefore the landlord is entitled to an order of Possession effective on October 31, 2011 pursuant to s. 55 of the *Act*.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **on October 31, 2011**. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to be reimbursed for the **\$50.00** cost of filing this application. I order that the landlord retain this amount from the security deposit of \$450.00 leaving a balance \$400.00 which must be returned to the tenant or otherwise dealt with in compliance with section 38 of the *Act*.

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 11, 2011.

Residential Tenancy Branch