



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for other issues pertaining to gaining an Order of Possession.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on September 28, 2011 after attempting to serve the tenant in person. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*. The tenant refused to collect this registered mail and the landlord served him again on October 01, 2011 by leaving a copy of the hearing documents at his feet and instructing him what they contained.

The landlord 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?

Background and Evidence

The landlord testifies that this tenancy started on May 01, 2011. The landlord states she has a verbal agreement in place for the tenant to rent this unit at a monthly rent of \$550.00. Rent is due on the first day of each month.

The landlord testifies the tenant gave written Notice to her to end his tenancy. This letter provided in evidence is dated August 09, 2011 and states the tenant will be vacating the rental unit as of October 01, 2011. The landlord testifies she attempted to show the unit to a prospective tenant when the tenant assaulted the prospective tenant. The police were called to this incident and the landlord decided not to press charges.

The landlord testifies that the tenant failed to move from the rental unit on October 01, 2011 and the landlord accepted rent from him for October but marked his receipt for use and occupancy only (receipt was been provided in evidence). The landlord seeks an Order of Possession as the tenant did not move out as per his written notice. The landlord is willing to allow the tenant to live at the rental unit until October 31, 2011 as he has paid his rent for October.

Analysis

The tenant did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlords documentary evidence and affirmed testimony before me.

It is my decision that the tenant did give the landlord written notice to end his tenancy for October 01, 2011. When a tenant provides this kind of notice it cannot be withdrawn except by mutual consent of both parties. The landlord accept rent for October and the tenant was informed that this was accepted for use and occupancy only therefore by accepting this rent the landlord did not reinstate the tenancy.

Consequently the landlord is entitled to an Order of possession as requested for 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 by 1.00 p.m.** This order must be served on the Respondent and may be filed in the Supreme Court and enforced 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: October 13, 2011.

Residential Tenancy Branch