



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, O

Introduction

This hearing dealt with the Landlord's Application, seeking an order ending the tenancy based on a one month Notice to End Tenancy for cause and to receive an order of possession for the rental unit.

Both parties appeared for the hearing by teleconference call, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

Has the Tenant been repeatedly late paying rent?

Background and Evidence

On March 31, 2012, the Landlord served the Tenant with a one month Notice to End Tenancy, with an effective end of tenancy date of April 30, 2012, for repeated late payment of rent (the "Notice").

The Notice was served by posting on the door of the rental unit. I note that documents served in this manner are deemed served three days later, and therefore, the effective end date of the Notice is corrected under the Act to May 31, 2012.

The Landlord provided evidence and testimony that the rent had been late in each of the twelve preceding months.

The occupant, who testified he is the son of the Tenant, agreed that rent had been late for several months. He testified he was starting a new business and his income had been "rocky", although he alleges it was paid on time a few of these months.

The occupant testified that neither him nor the Tenant applied to dispute the one month Notice to End Tenancy.

Analysis

Based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find as follows:

I find that the Tenant has been repeatedly late paying rent in at least three instances over the past twelve months. More importantly, I find the Tenant failed to dispute the Notice to End Tenancy and therefore is conclusively presumed under section 47 of the Act to have accepted the end of the tenancy on the corrected effective date of the Notice.

Conclusion and Orders

The Landlord is entitled to an **Order of Possession, effective at 1:00 p.m. May 31, 2012**. This order must be served on the Tenant and may be filed and enforced through the Supreme 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 Act. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: May 24, 2012.

Residential Tenancy Branch