



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, OPC, FF

Introduction

This hearing was scheduled to deal with cross applications. The tenant filed an application seeking resolution of “Other” issues; however, the details of dispute indicated that he wished to dispute a Notice to End Tenancy for cause. The landlord filed for an Order of Possession for cause.

The tenant did not appear at the hearing despite leaving the teleconference call open for 10 minutes. The landlord confirmed receiving the tenant’s Application for Dispute Resolution on July 5, 2012. Since the landlord appeared and was prepared to deal with the tenant’s application, due to the tenant’s failure to appear at the hearing, I dismissed the tenant’s application without leave to reapply.

The landlord and her daughter appeared at the hearing. The landlord’s daughter translated her mother’s testimony into English. The landlord testified that she sent the landlord’s hearing documents to the tenant via registered mail addressed to the rental unit on July 10, 2012. The landlord provided a registered mail tracking number as proof of service. I was satisfied the tenant has been notified of the landlord’s Application for Dispute Resolution and this hearing. Accordingly, I proceeded to hear from the landlord in the absence of the tenant.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

A co-tenancy commenced August 1, 2011 and pursuant to the written tenancy agreement the tenants are required to pay rent on the 31st day of every month. On June 9, 2012 the landlord personally served the female tenant with a 1 Month Notice to End Tenancy for Cause (the Notice). The Notice has a stated vacancy date of July 10, 2012.

The male tenant filed to dispute the Notice on June 19, 2012 and the tenant's application has been dismissed, as described in the Introduction above.

The landlord provided a copy of the Notice and the tenancy agreement as evidence for this proceeding.

Analysis

Based upon the undisputed evidence provided to me I accept that the tenants were served with a 1 Month Notice to End Tenancy for Cause on June 9, 2012. Under section 47 of the Act the effective date of such a Notice must be at least one full month after it is received by the tenant and be on the day before rent is due. Since rent is due on the 31st of the month the effective date should read July 30, 2012.

An incorrect effective date does not invalidate a Notice. Rather, the effective date is automatically changed to comply pursuant to section 53 of the Act. Accordingly, the effective date on the Notice reads July 30, 2012.

Since the tenant failed to appear at his hearing to dispute the Notice and his application was dismissed, I grant the landlord's request for an Order of Possession. The Order of Possession is effective at 1:00 p.m. on July 30, 2012 and requires the tenant and all other occupants to vacate the rental unit by that date.

I award recovery of the filing fee to the landlord. The landlord is authorized to deduct \$50.00 from the tenants' security deposit in satisfaction of this award.

Conclusion

The tenant's application to dispute a Notice to End Tenancy was dismissed without leave. The landlord's application for an Order of Possession for cause was granted. The landlord has been provided an Order of Possession effective July 30, 2012 to serve upon the tenants. The landlord has been authorized to recover the filing fee of \$50.00 by deducting this amount from the tenants' security deposit.

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 18, 2012.

Residential Tenancy Branch