



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPC, OPB, FF

Introduction

This hearing dealt with an application submitted by the landlord seeking an Order of Possession based on the One-Month Notice to End Tenancy for Cause dated June 6, 2012, and purporting to be effective July 1, 2012.

Despite being served by registered mail on July 10, 2012, the tenant did not appear.

Issue(s) to be Decided

The issue to be determined on the landlord's application is:

Is the landlord entitled to an Order of Possession based on the One-Month Notice to End Tenancy for Cause?

The burden of proof is on the landlord.

Background and Evidence

The tenancy had originally started in August 2011, the current rent is \$550.00 and the tenant had paid \$137.50 security deposit. A copy of the One-Month Notice to End Tenancy for Cause dated June 6, 2012 was in evidence and indicated that the tenant had been repeatedly late with rent, significantly interfered with or unreasonably disturbed others and seriously jeopardized the health and safety of another occupant or the landlord. The landlord testified the Notice was personally served June 6, 2012.

Analysis

Under section 47 of the Act, a landlord may terminate the agreement by giving notice to end the tenancy for repeated late payment of rent.

Regardless of whether or not the merit of the One-Month Notice to End Tenancy for Cause was found sufficient to support a termination of the tenancy, the fact is that this tenant had failed to dispute the Notice by making their own application within the statutory 10-day deadline to do so. If a tenant who has received a notice under section

47 fails to make an application for dispute resolution to dispute the Notice, the Act states that the tenant:

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

I find that, because the Notice was not disputed, I must grant the landlord an Order of Possession based on this Notice.

However, section 47(2) states that a notice under this section must end the tenancy effective on a date that is: (a) not earlier than one month after the date the notice is received, and; (b) the day before the day in the month, or other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Although the stated effective date shown on the One Month Notice to End Tenancy for Cause was July 1, 2012, section 53 of the Act deems the effective date of a notice will automatically be changed to the earliest date in compliance with the Act, and in this instance I find that the earliest effective date for the Notice would be July 31, 2012.

Conclusion

Based on evidence and testimony, I hereby grant an Order of Possession in favour of the landlord, effective two days after service. The order must be served on the tenant 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 this amount may be retained from the tenant's security deposit of \$137.50, leaving \$87.50 security deposit still held in trust for the tenant.

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 01, 2012.

Residential Tenancy Branch