



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPC, 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 July 13, 2012 and purporting to be effective August 31, 2012.

Despite being served by registered mail sent on August 1, 2012, the tenant did not appear. The landlord verified the service by providing the Canada Post Tracking number.

Issue(s) to be Decided

Is the landlord is 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 to justify that the Notice to End Tenancy should be enforced and an Order of Possession issued.

Background and Evidence Notice to End Tenancy

The landlord testified that the tenancy had originally started on July 1, 2012 at which time the tenant paid a security deposit of \$362.50. The landlord testified that the tenant was issued a One-Month Notice to End Tenancy for Cause because the tenant had significantly interfered with or unreasonably disturbed the landlord and another resident, seriously jeopardized the health or safety or lawful right of another occupant or the landlord and engaged in illegal activity that had or is likely to adversely affect the quiet enjoyment, security, safety of physical well-being of another occupant or the landlord and jeopardized a lawful right or interest of the landlord or other occupant and in addition, breached a material term of the tenancy. The landlord testified that testified that the tenant had not filed an application to dispute the Notice, but has not yet vacated the unit.

Analysis

Under section 47 of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause and section 47(2) of the Act 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 in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The Act states that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice. However, if a tenant who has received a notice under section 47 does not make an application for dispute resolution in accordance with subsection (4), 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.

In this instance, the did not ever make any application to dispute the One-Month Notice. Therefore I find that under the Act an Order of Possession must be issued in favour of the landlord based on the One-Month Notice.

Conclusion

I hereby grant the landlord an Order of Possession effective August 31, 2012. This 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 \$362.50, leaving a balance of \$312.50 still held on behalf of the tenant. The remaining deposit must be administered 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: August 29, 2012.

Residential Tenancy Branch