



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for cause.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the Landlord be granted an Order of Possession?

Background and Evidence

The parties agreed they entered into a fixed term tenancy agreement that began on October 1, 2011 which is set to switch to a month to month tenancy after September 30, 2012. Rent is payable on the first of each month in the amount of \$1,140.00 and on or before October 1, 2011 the Tenants paid \$570.00 as the security deposit.

The Landlord affirmed that on August 9, 2012 he personally served the Tenant E.B. with the 1 Month Notice to End tenancy for cause. E.B. acknowledged receipt of the Notice.

The Tenant's Advocate submitted that the Tenants were not disputing the Notice and that they will be vacating the unit by September 30, 2012. Each Tenant confirmed they were vacating on September 30, 2012 and that they understood they needed to be out of the unit by 1:00 p.m. on that date.

Analysis

Upon review of the 1 Month Notice to End Tenancy issued August 9, 2012, I find the Notice to be completed in accordance with the requirements of the Act and I find that it was served upon the Tenants in a manner that complies with the Act. Upon consideration of all the evidence presented to me, I find the Landlord had valid reasons for issuing the Notice.

Section 47(4) of the Act stipulates 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.

In this case the Tenants would have had to file their application for dispute no later than August 19, 2012. At the time the Landlord filed his application for an Order of Possession on August 21, 2012 the Tenants had not made application to dispute the Notice.

Section 47(5) of the Act stipulates that if a tenant who has received a notice under this section 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.

The Tenants appeared and advised they would be vacating the unit in accordance with the Notice. As per the aforementioned, I find this tenancy will end as of the effective date of the Notice, September 30, 2012, and I award the Landlord an Order of Possession.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **September 30, 2012 at 1:00 p.m., after service on the Tenants.** This Order is legally binding and must be served upon the Respondent Tenants.

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: September 21, 2012.

Residential Tenancy Branch