



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 submitted by the landlord seeking an Order of Possession based on the One-Month Notice to End Tenancy for Cause dated October 30, 2012 and to be effective December 1, 2012.

The landlord verified that the tenant was served by registered mail by providing the Canada Post Tracking number. Both parties appeared at the hearing and gave evidence.

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 August 15, 2012 at which time the tenant paid a security deposit of \$325.00. The landlord testified that the tenant was issued a One-Month Notice to End Tenancy for Cause and this was served in person to the tenant on October 30, 2012. The landlord testified that testified that the tenant had not filed an application to dispute the Notice, but has not yet vacated the unit.

The tenant confirmed that he received the One-Month Notice to End Tenancy for Cause and confirmed that he had not filed for Dispute Resolution to dispute the Notice. The tenant stated that he needed more time to find another place to move to.

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 tenant did not ever make an application to dispute the One-Month Notice. Therefore I find that under the Act the tenant is presumed to have accepted the ending of the tenancy and an Order of Possession must be issued in favour of the landlord based on the One-Month Notice.

I hereby grant the landlord an Order of Possession effective 2 days after service on the tenant. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The landlord is granted an Order of Possession based on the undisputed One-Month Notice to End Tenancy for Cause.

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: December 19, 2012.

Residential Tenancy Branch