



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, O

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for cause.

The tenant, the tenants advocate and two agents for the landlord attended the conference call hearing and gave sworn testimony. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for cause?

Background and Evidence

This tenancy started on September 01, 2000, rent is due on the first day of each month. The landlord testifies that a previous hearing took place on December 05, 2012 when the tenant filed an application to set aside a One Month Notice for cause. The tenant was unsuccessful at that hearing and the Arbitrator presiding at the hearing determined that the landlord has grounds to end the tenancy pursuant to s. 47(1)(d)(iii) of the *Residential Tenancy Act (Act)*. The tenant was unable to establish grounds to set the one month Notice to End Tenancy aside and the tenant's application was dismissed.

The landlord testifies that the tenant applied for a review of the hearing and the tenant's application for review was also dismissed. The landlord has provided copies of the previous decision and review consideration in documentary evidence.

The landlord testifies that they had hoped the tenant would be able to make his home habitable since the previous hearing but the same conditions remain in the tenants unit as confirmed when one of the landlords agent's JH went to the unit at the end of December, 2012. These conditions were unchanged and continue to render the unit unsafe putting the landlords property and other tenants at risk. The landlord testifies that they have not deposited the tenants rent cheques and the tenant is welcome to go and pick those up from the landlord to help the tenant with his move.

The landlord seeks an Order of Possession effective on February 28, 2013 to give the tenant additional time to move out.

The tenant testifies that he has a brain injury and this results in a chronic disorganisation disorder. The tenant testifies he has been working with service agencies to try to get his belongings removed and has two storage units but he is unable to coordinate the support needed to move his belongings.

The tenant testifies that he does not want to be a burden to the landlord and has tried to work with them as much as possible however the tenant accepts that he must move from the rental unit.

Analysis

When a Notice to End Tenancy has been served upon a tenant a tenant is entitled to file an application to have the Notice set aside. The tenant did this but his application was dismissed. Consequently, I find the landlord has the right to file an application for an Order of Possession as it was determined at the previous hearing that the landlord was entitled to end the tenancy pursuant to s. 47(1)(d)(iii) of the *Act*. As there is no further

evidence presented to prevent this then I find the landlord has established grounds to end the tenancy as stated at the previous hearing held on December 05, 2012 and the landlord has been issued with an Order of Possession pursuant to s. 55 of the *Act*.

Conclusion

For the reasons set out above I HEREBY ISSUE an Order of Possession in favour of the landlord effective on February 28, 2013. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

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: February 01, 2013

Residential Tenancy Branch

