



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KEKINOW NATIVE HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

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 January 2, 2013 and purporting to be effective February 28, 2013.

The applicant was present and participated in the hearing. Despite being served with the Notice of Hearing documents by registered mail sent on March 8, 2013, as verified by the Canada Post tracking number, the respondent did not appear and the hearing was therefore conducted in the respondent's absence.

Issue(s) to be Decided

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

Background and Evidence Notice to End Tenancy

The landlord testified that the tenancy had started in 2008.

The landlord testified that a One-Month Notice to End Tenancy for Cause was issued and served on the tenant by posting it on the tenant's door. The landlord testified that the tenant has not filed to dispute the Notice, nor has the tenant vacated the unit, and the landlord is seeking an Order of Possession based on the undisputed One-Month Notice to End Tenancy for Cause.

Analysis of Issue - Notice to End Tenancy

Section 47 (1) of the Act permits a landlord to issue a One-Month Notice to end Tenancy A landlord may end a tenancy by giving notice to end the tenancy if:

- (d) the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

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 would have to file an application to dispute the Notice within the required 10 days after receiving the Notice. I find that the tenant in this case did not file an application to dispute the One-Month Notice to End Tenancy for Cause within the ten-day deadline.

Given the above, I find that, under the Act, an Order of Possession must be issued to the landlord based on the One-Month Notice.

I hereby issue an Order of Possession effective two 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.

I find that the landlord is entitled to be reimbursed for the \$50.00 cost of filing this application. I hereby order that the landlord retain \$50.00 from the tenant's security deposit in compensation for the application fee.

Conclusion

The landlord is successful in the application and is granted an Order of Possession and an order to retain a portion of the tenant's security deposit to reimburse the landlord for the \$50.00 cost of the application.

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: April 03, 2013

Residential Tenancy Branch