



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and recovery of the filing fee. The tenant appeared at the commencement of the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Is the landlord entitled to an order of possession and, if so, upon what terms?

Background and Evidence

This seven-month fixed term tenancy commenced April 1, 2013. The monthly rent of \$900.00 is due on the first day of the month. The tenant paid a security deposit of \$450.00 and a pet damage deposit of \$150.00.

On April 15, 2013, the landlord issued and served a 1 Month Notice to End Tenancy for Cause with an effective date of May 31, 2013. When the tenant did not move out of the rental unit, the landlord filed this application.

The landlord's witnesses gave evidence about frightening and disruptive events at the tenant's unit. The witness for the tenant was a police officer attached to the domestic violence unit of the local police force. He described some of the events that led to the neighbours complaining and described their unit's commitment to ensuring the tenant's safety in the future.

The tenant also testified. She had not filed an application disputing the notice nor had she filed an application for an order extending the time for making such an application. She said she had relied upon the undertaking of one of the landlord's employees and had also been in and out of hospital.

The landlord testified that she had tried to talk to the tenant on several occasions, with limited success, and had never told the tenant that everything would just go away.

Based on the police officer's testimony the landlord asked that the hearing be adjourned for one month to see if things settled down at the tenant's unit. The hearing was

adjourned, with the consent of all parties, to July 17 at 9:00 am. The tenant paid the rent for July which the landlord accepted for use and occupancy only.

On July 17 only the landlord appeared at the hearing. She testified that there had been other disturbances at the tenant's unit, including an altercation with the tenant's new roommate that had resulted in the police being called. The neighbours are still complaining and the landlord did not want the tenancy to continue.

Analysis

The tenant was properly served with a 1 Month Notice to End Tenancy for Cause. She never disputed the notice nor did she ever apply for an extension of time in which to do so. Pursuant to section 49(9), she is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on these facts I find that the landlord is entitled to an order of possession. Because the tenant paid the rent to the end of July the effective date of the order of possession will be July 31, 2013, at 1:00 pm.

I also find that the landlord is entitled to reimbursement from the tenant of the \$50.00 fee it paid to file this application. I grant the landlord a monetary order in the amount of \$50.00.

Conclusion

- a. An order of possession has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that court.
- b. A monetary order has been granted. If necessary, this order may be filed in the Provincial 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: July 19, 2013

Residential Tenancy Branch