



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding First United Church Social Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The tenancy began on February 1, 2006. Rent, subsidized to the amount of \$552.00, is payable in advance on the first day of each month. On August 30, 2013, the Landlord served the Tenant with a 1 Month Notice to End Tenancy for Cause (the “Notice”) by posting the Notice on the door. The Notice has an effective date of September 30, 2011. The Tenant has not filed an application to dispute the Notice and has not moved out of the unit. The Landlord seeks an Order of Possession for the earliest possible date.

Analysis

Section 90 of the Act provides that a document served by posting on the door is deemed to be received on the third day after it is posted. Section 47 of the Act provides that where a landlord serves a notice to end tenancy for cause the notice must end the tenancy effective on a date that is not earlier than one month after the date the notice is received, and 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. Section 53 of the Act provides that where a landlord gives notice to end a tenancy effective on an incorrect date, the notice is deemed to be changed to the earliest date that complies with the Act. As rent is payable on the first day of each month and as the posted Notice is deemed to have been received on September 2, 2013, I find that the effective date of the Notice is automatically corrected to October 31, 2013.

Section 47 of the Act requires that upon receipt of a Notice to end Tenancy for Cause, the tenant may, within ten days of receiving the notice, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the Notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the unit by that date. Although it was indicated at the Hearing that the Landlord would be entitled to an order of possession effective two days after being served, upon further consideration of the above method of service, the automatically corrected effective date of the Notice and given that the Tenant has not disputed the Notice, I find that the Landlord is entitled to an Order of Possession effective 1:00 p.m. October 31, 2013.

Conclusion

I grant an Order of Possession effective 1:00 p.m. October 31, 2013 to the Landlord.

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: October 23, 2013

Residential Tenancy Branch

