



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing was scheduled to deal with a landlord's application for an Order of Possession for cause. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession?

Background and Evidence

The tenancy commenced in March 2012 and the tenant is required to pay by the 1st day of every month. The landlord served a 1 Month Notice to End Tenancy for Cause (the Notice) to the tenant, in person, on August 29, 2013. The Notice has stated effective date of September 29, 2013. The tenant did not file to dispute the Notice and has not vacated the rental unit. On September 30, 2013 the landlord filed this Application seeking an Order of Possession.

The tenant stated that he did not agree with the reasons indicated on the Notice. The tenant confirmed receiving both pages of the 1 Month Notice but stated that he did not understand his obligation to file to dispute the Notice as he "is not a lawyer". The tenant indicated he could not move out as he did not have anywhere to go and because it is cold outside.

The landlord acknowledged receiving a rent cheque from the Ministry for the tenant for the month of November 2013 but stated the cheque has not been cashed since the tenant was being evicted by way of this proceeding. The landlord was willing to permit the tenant occupancy of the rental unit until November 30, 2013.

Analysis

A tenant who receives a 1 Month Notice to End Tenancy for Cause has 10 days after receiving the Notice to file an Application for Dispute Resolution to dispute the Notice. Section 47(5) for the Act provides that if a tenant does not file to dispute the Notice the tenant is conclusively presumed to have accepted that the tenancy would come to an end and the tenant would have to vacate the rental unit by the effective date of the Notice.

Having heard the tenant's rent is due on the 1st day of every month, the effective date on the Notice before me should have read September 30, 2013. An incorrect effective date does not invalidate the Notice; rather, the Act provides that the effective date automatically changes to comply with the Act.

Since the tenant did not file to dispute the Notice that he received on August 29, 2013, I find the tenancy has ended pursuant to section 47(5) of the Act and the landlord is entitled to regain possession of the rental unit. I grant the landlord's request for an Order of Possession with an effective date of November 30, 2013. As, such, I authorize the landlord to cash the rent cheque received from the Ministry on behalf of the tenant for the month of November 2013.

Conclusion

The landlord has been provided an Order of Possession to be effective at 1:00 p.m. on November 30, 2013.

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: November 07, 2013

Residential Tenancy Branch

