



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for an Order of Possession based on the tenant's notice to end the tenancy.

One of the landlords attended the hearing on behalf of both landlords. However, despite being personally served with the Landlord's Application for Dispute Resolution and notice of hearing documents personally, no one for the tenant attended. The landlord testified that the tenant was personally served by the landlord's uncle in the presence of both landlords on March 21, 2014, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*. The line remained open while the phone system was monitored prior to taking any other testimony and the only participant who joined the call was the landlord.

The landlord gave affirmed testimony and provided evidentiary material prior to the commencement of the hearing, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession based on the tenant's notice to end the tenancy?

Background and Evidence

The landlord testified that the tenant was a tenant in the rental unit at the time that the landlords purchased it in February, 2012 and the tenant still resides in the rental unit. The landlord is not sure if there is a written tenancy agreement, but testified that the tenancy is on a month-to-month basis. Rent in the amount of \$2,000.00 per month is payable in advance on the 1st day of each month, and the tenant has not paid rent since

August, 2013. No security deposit or pet damage deposit has been paid to the landlord, and the landlord testified that no such deposits were included on the Statement of Adjustments when the rental unit was purchased. The tenant promised to pay a security deposit in installments, but never paid any.

The landlord further testified that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities last October, 2013 and the tenant agreed to move out. The landlord has not provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, but has provided a copy of a document dated October 2, 2013 which appears to contain the signature of the tenant, and states as follows: "I, (tenant) understand that the owner of (address of rental unit), will be demolishing the dwelling. I understand that I will need to vacate the premises in a timely manner before Nov 30th 2013."

The tenant has not paid rent, and based on the tenant's promise to move out by November 30, 2013, the landlord asks for an Order of Possession.

Analysis

The *Residential Tenancy Act* states that a month-to-month tenancy ends only in certain ways. Parties can sign a Mutual Agreement to End Tenancy by obtaining the form from the Residential Tenancy Branch website. Also landlords can serve a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, or a 1 Month Notice to End Tenancy for Cause, or a 2 Month Notice to End Tenancy for Landlord's Use of Property, or the tenant can give a month's notice to vacate.

In this case, I have a document signed by the tenant that the landlords consider notice by the tenant to vacate the rental unit. I consider the document to be an acknowledgement by the tenant that the landlords told him he had to move out so that the rental unit could be demolished. If the landlords want to demolish the rental unit, the landlords must comply with the *Residential Tenancy Act* and issue a 2 Month Notice to End Tenancy for Landlord's Use of Property. If rent remains unpaid, the landlord may issue a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. Once served, the tenant has 5 days to pay the rent in full or dispute the notice. If the tenant does neither, the *Act* states that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlords may again apply for an Order of Possession and a monetary order for the unpaid rent.

Therefore, I dismiss the landlords' application.

Conclusion

For the reasons set out above, the landlords' application is hereby dismissed.

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: March 31, 2014

Residential Tenancy Branch

