



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LLA Investments Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for an early end of tenancy and an Order of Possession.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail on April 22, 2014 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.

Preliminary Matter

At the onset of the Hearing the Landlord stated that he was seeking an order of possession pursuant to a one month notice to end tenancy for cause and not an early end of tenancy. Noting that the materials filed as evidence support the application for the order of possession as stated by the Landlord, I accept this statement of the Landlord’s intent and accept that the application in relation to an early end of tenancy was merely filled out in error. I also note that the details of the application also include a claim for the return of the security deposit.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

The tenancy began on April 1, 2014. Rent of \$640.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$320.00. On April 4, 2014, the Landlord served the Tenant in person with a 1 Month Notice to End Tenancy for Cause (the "Notice"). The Notice sets out an effective date of May 5, 2014. The Tenant did not file an application to dispute the Notice.

Analysis

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. Accordingly, the effective date of the Notice is automatically adjusted to May 31, 2014.

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.

Based on the Landlord's evidence I find that the Tenant was served with the Notice and that the Tenant has not filed an application to dispute the notice. I therefore find that the Tenant must vacate the unit by May 31, 2014. Given these facts, I find that the Landlord is entitled to an **Order of Possession effective 1:00 p.m. May 31, 2014.**

As the tenancy has yet to end and a landlord may not claim against the security deposit until the end of the tenancy, I find that the Landlord has made the claim for the retention of the security deposit too early and I dismiss this claim with leave to reapply.

Conclusion

I grant the Landlord an Order of Possession effective 1:00 p.m. on May 31, 2014.

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: May 13, 2014

Residential Tenancy Branch

