



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession.

The Landlord appeared at the hearing. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Landlord also had four witnesses available to testify. He testified that all four witnesses were present when the Tenant was served the 2 Month Notice to End Tenancy for Landlord's Use of Property (the "Notice"). He further confirmed that all four witnesses were present when he served the Notice of Hearing, the Landlord's Application for Dispute Resolution and supporting evidence (the "Application Materials"). Additionally, the Landlord introduced in evidence letters written by the witnesses, R.A., J.B., and J.C., in which they confirm they witnessed service of the Application Materials and the Notice on the Tenant. I determined it was only necessary to hear from one witness and the Landlord chose R.A.; consequently, all other witnesses, aside from R.A., were excused.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

R.A. testified he saw the Landlord serve the Tenant with the Application Materials on September 11, 2014 by personal service. R.A. testified that when served, the Tenant threw the papers on the ground and swore at the Landlord. I find the Tenant was served the Application Materials in accordance with the Act and was aware of the hearing.

Issues to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession?

Background and Evidence

The Landlord testified as to the terms of the tenancy. He stated that the Tenant moved into the rental unit for an indeterminate time. The Landlord testified that, at the commencement of the tenancy, he informed the Tenant that it was his intention to use the suite as an office in the near future, and the Tenant communicated that he understood the tenancy would not be long term. The Landlord stated that when he attempted to discuss this further with the Tenant after the tenancy began, the Tenant became very angry and changed the locks.

On June 30, 2014 the Landlord issued the Notice with an effective date of August 31, 2014. R.A. testified that he was present on June 30, 2014, when the Landlord personally served the Notice on the Tenant. According to R.A., when served the Notice, the Tenant began yelling and swearing at the Landlord and ripped up the Notice. I find that the Tenant was served with the Notice on June 30, 2014.

The Notice also explains the Tenant had fifteen days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The Tenant did not file to dispute the Notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The Tenant did not file to dispute the Notice and the Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy. The Landlord is granted an Order of Possession.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: September 29, 2014

Residential Tenancy Branch

