



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPL

Introduction

This was the hearing of an application by the landlord for an Order of Possession pursuant to a claimed undisputed 2 Month Notice to End for Landlord's Use. The hearing was conducted by conference call. The landlord attended the hearing although the tenant did not.

The landlord testified that they served the tenant with the Notice of Hearing on December 02, 2014 by posting it to the tenant's door. The landlord further testified that they provided the tenant with the 2 Month Notice to End for Landlord's Use on October 31, 2014, although the hearing does not have benefit of a copy of this evidence. I find that the tenant was served with the application for dispute resolution and Notice of Hearing in accordance with Section 89 of the Act on December 02, 2014 and deemed to have received it 3 days later; however, they did not call into the conference call hearing and did not participate in the hearing.

The landlord testified that, in retrospect, it appears the tenant vacated the rental unit in early December 2014, leaving some cast-offs in the furnished rental unit, and have not returned since. The landlord stated they applied for an Order of Possession out of an abundance of caution.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The subject rental unit is a basement suite rented furnished to the respondent tenant. The landlord testified that on October 31, 2014 the tenant was personally served with a 2 month Notice to End Tenancy for landlord's use of property as well as posting the

notice to the tenant's door. The tenant has not / did not file an application to dispute the Notice to End Tenancy within the 15 days permitted to do so under the Act; however, the landlord has not provided a copy of the Notice. The landlord testified that the tenant left behind approximately 15 items of clothing which the landlord considers were abandoned and cast-offs / refuse, 2 irreparable pieces of luggage the landlord considers were abandoned and cast-offs / refuse, an older toaster over the landlord considers was abandoned and cast-off/ refuse, and an array of spoiled food. In retrospect, by their indication, the landlord testified they think the tenant vacated a month ago.

Analysis

I have not received a copy of the purported Notice to End for this matter. As a result, I cannot determine if the landlord's claim is valid, therefore the landlord is not entitled to an Order of Possession, and the landlord's application is **dismissed**, with leave to reapply, if necessary.

However, it is available to the landlord to consider their testimony and to determine, on balance of probabilities that the tenant has vacated and therefore the tenancy has come to an end. On this basis possession of the rental unit would automatically revert to the landlord for their use.

Conclusion

The landlord's application is **dismissed**, with leave to reapply.

This Decision is final and binding on both parties.

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: January 05, 2015

Residential Tenancy Branch

