



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPL, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on a 2 Month Notice to End Tenancy for Landlord's Use, (the Notice).

Both parties were present at the hearing. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the 2 Month Notice to End Tenancy for Landlord's Use?

Background and Evidence

No copy of the 2 Month Notice to End Tenancy was submitted into evidence. However, the landlord stated that the Notice was issued because the landlord would be renovating the rental unit. The landlord stated that they are entitled to an order of possession based on the Notice as the tenant's application to cancel the Notice had been dismissed in a previous hearing.

The tenants stated that they had disputed the 2 Month Notice to End Tenancy for Landlord's Use and a hearing on the matter was held on January 30, 2015 under another file number. In a decision dated February 3, 2015, by another arbitrator, the tenants' application was dismissed as nobody appeared.

The parties both testified that neither party had been able to access the January 30, 2015 conference call dealing with the tenants' application due to technical difficulties with the telephone system.

The landlord testified that they then made their own application on February 4, 2015 under the file number before me seeking an order of possession. The landlord's application before me today seeks an order of possession based on the 2 Month Notice and the fact that the landlord was aware that the tenants' application, disputing the Notice was dismissed in the decision dated February 3, 2015.

However, records indicate that on February 5, 2015, the tenants had already made an application requesting Review Consideration of the decision dated February 3, 2015, based on the fact that they were unable to connect to their hearing on January 30, 2015, due to system problems.

The Review Consideration Decision, dated February 11, 2015, found in favour of the tenants and granted them a new hearing to dispute the landlord's Notice, scheduled to be heard on March 12, 2015.

During this hearing, the landlord testified that they were not aware that the tenants had applied for a review and that the request for Review Consideration had been successful. The Notice of the new hearing for March 12, 2015, to hear the tenants' application was not yet served on them.

A mediated discussion ensued and the parties both parties agreed that this tenancy would end on consent effective April 30, 2015 at 1:00 p.m. and that the landlord would be issued with an Order of Possession effective on that date.

Pursuant to the mutual agreement reached between these parties, I hereby issue an Order of Possession in favour of the landlord, effective at 1:00 p.m. on April 30, 2015. This order must be served on the tenants and may be filed in the Supreme Court and enforced as an order of that Court.

The parties indicated that they are aware that if the tenants give notice to vacate earlier, under this section, this does not affect the tenants' right to receive the equivalent of one month compensation under section 51 *of the Act*.

As the dispute was mutually settled between the parties, I find that the landlord is not entitled to be compensated for the cost of the application.

Conclusion

The dispute is resolved by a mutual agreement between the parties to terminate the tenancy on consent and the landlord is granted an Order of Possession on the agreed-upon date.

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: February 17, 2015

Residential Tenancy Branch

