



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

This hearing dealt with a landlord's application for an Order of Possession based upon a 2 Month Notice to End Tenancy for Landlord's Use of Property. The tenant did not appear at the hearing. The landlord orally provided a registered mail tracking number and testified that the hearing documents were sent to the tenant at the rental unit via registered mail which was received by the tenant on February 11, 2015. Based upon the undisputed testimony before me, I accept that the tenant was sufficiently served with notice of this proceeding and I continued to hear from the landlord without the tenant present.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord sent a 2 Month Notice to End Tenancy for Landlord's Use of Property (the Notice) to the tenant at the rental unit via registered mail on December 5, 2015. The Notice has a stated effective date of February 28, 2015 and indicates the reason for ending the tenancy is that "all of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or close family member intends in good faith to occupy the rental unit". The landlord provided a copy of the registered mail receipt as proof of service. The tenant did not file to dispute the Notice.

The landlord's agent testified that the tenant has indicated that she was moving out of the rental unit but the landlord's agent explained that the tenant is still in possession of the rental unit and it is imperative that possession be regained on February 28, 2015 as the possession must be given to the purchaser to avoid breaching the sales contract.

Documentary evidence provided for my review included a copy of the 2 Month Notice and registered mail receipt as proof the Notice was mailed to the tenant on December 5, 2014.

Analysis

Where a landlord wishes to end a tenancy for one of the reasons provided under the Act for ending a tenancy for the landlord's use of the property, the landlord must serve the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property in the approved form.

Upon receiving a 2 Month Notice, a tenant has 15 days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not file to dispute the Notice within 15 days, pursuant to section 49(9) of the Act, the tenant is conclusively presumed to have accepted that the tenancy shall end and the tenant will have to vacate the property by the effective date of the Notice.

I accept the undisputed evidence before me that the landlord sent a 2 Month Notice to End Tenancy for Landlord's Use of Property to the tenant by registered mail on December 5, 2014. Upon review of the Notice, I find that it is in the approved form, includes a reason for ending the tenancy as permitted under the Act, and a correct vacancy date. Since the tenant did not dispute the Notice I find that the tenant is conclusively presumed to have accepted the end of this tenancy as of February 28, 2015 and must vacate the rental unit by that date. Therefore, I find the landlord entitled to regain possession of the rental unit on February 28, 2015.

Section 55(2) of the Act provides that a landlord may request an Order of Possession where:

(b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired

Having been satisfied the landlord is entitled to regain possession of the rental unit on February 28, 2014, I grant the landlord's request for an Order of Possession as provided under section 55(2)(b) of the Act.

Provided to the landlord with this decision is an Order of Possession effective at 1:00 p.m. on February 28, 2015 to serve and enforce as necessary.

Conclusion

The landlord has been provided an Order of Possession effective at 1:00 p.m. on February 28, 2015.

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 26, 2015

Residential Tenancy Branch

