



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HUME INVESTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession for cause. The tenants did not appear at the hearing. The landlord provided registered mail receipts as proof of service of the hearing documents upon each tenant by way of registered mail sent to the rental unit on March 3, 2015. I heard from the landlord that the registered mail was returned as unclaimed. The landlord testified that the tenants were seen removing their personal possessions from the rental unit yesterday and today but have yet to return the keys or possession of the unit to the landlord. Section 90 of the Act deems a person to have received documents five days after mailing to their address of residence even if the person refuses to accept or pick up their mail. Therefore, I deemed to the tenants to be served with the hearing documents and I continued to hear from the landlord without the tenants present.

Since keys to the rental unit and possession of the unit had not yet been returned to the landlord as of the time of this hearing, the landlord requested an Order of Possession be provided in the event it is required to regain possession.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The tenancy commenced March 1, 2014 for a fixed term that expired August 31, 2014 and then continued on a month to month basis thereafter. The tenants were required to pay rent of \$825.00 on the 1st day of every month and paid a security deposit of \$412.50.

On January 12, 2015 the landlord posted a 1 Month Notice to End Tenancy for Cause (the Notice) on the door of the rental unit. The Notice has a stated effective date of

February 28, 2015. The tenants did not file to dispute the Notice and did not vacate the rental unit by February 28, 2015 causing the landlord to file this Application seeking an Order of Possession. The landlord stated the tenants presented one-half of the monthly rent for March 2015 to the landlord. The tenants were seen removing their personal possessions from the property yesterday and today but the keys to the rental unit and possession of the rental unit have yet to be returned to the landlord.

The landlord requested recovery of the filing fee by way of a deduction from the security deposit.

The landlord provided copies of the tenancy agreement; the 1 Month Notice; and, registered mail receipts as documentary evidence for this proceeding.

Analysis

The Act provides that a tenant who has been served a 1 Month Notice to End Tenancy for Cause has 10 days to file an Application to dispute the Notice. If the tenant does not file to dispute the Notice, pursuant to section 47(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end on the effective date of the Notice and must vacate the rental unit by that date.

Based upon the undisputed testimony and evidence before me, I accept that the landlord served the tenants with a 1 Month Notice to End Tenancy for Cause by posting it the door of the rental unit on January 12, 2015. Pursuant to section 90 of the Act, the Notice was deemed to be received by the tenants three days later. Since the tenants did not file to dispute the Notice, I find the tenants accepted that the tenancy would end on the effective date of February 28, 2015 and the tenants were required to vacate the rental unit by that date.

In light of all of the above, I find the landlord entitled to regain possession of the rental unit and I provide the landlord an Order of Possession to serve and enforce should the tenants fail to return possession of the unit to the landlord. The Order of Possession provided to the landlord is effective two (2) days after service upon the tenants.

I further award recovery of the filing fee to the landlord as I am satisfied it is the tenants' failure to vacate when required that necessitated this proceeding. Therefore, I authorize the landlord to deduct \$50.00 from the tenants' security deposit, as requested, to recover the filing fee.

Conclusion

The landlord has been provided an Order of Possession to serve and enforce as necessary. The Order of Possession is effective two (2) days after service. The landlord has been authorized to deduct \$50.00 from the tenants' security deposit so as to recover the filing fee paid for this Application.

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: April 02, 2015

Residential Tenancy Branch

