



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NICEL ENTERPRISES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain an Order of Possession for cause pursuant to section 47; and
- b) To recover the filing fee for this application.

Service:

The Notice to End Tenancy is dated February 28, 2015 to be effective March 31, 2015 and the landlord gave sworn evidence it was served by posting it on the door with a witness and the Application for Dispute Resolution was served April 8, 2015 by registered mail. It was verified online that delivery was attempted, several Notices were left but when the tenant failed to pick it up by May 5, 2015, it was returned to the sender. I find the Application is deemed to be served pursuant to section 90 of the Act for the purposes of this hearing.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenancy is ended pursuant to section 47 and they are entitled to an Order of Possession? Is the landlord entitled to recover the filing fee?

Background and Evidence

The tenant did not attend. The landlord attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The landlord said the tenancy commenced a couple of years ago, rent is \$500 a month and a security deposit of 250 was paid.

The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

- a) The tenant has engaged in illegal activity that has, or is likely to
(iii) jeopardize the legal right or interest of another occupant or the landlord.

She testified that the tenant changed the locks and refused to give the landlord a key. He also has refused entry to do pest control and inspection, saying he is not ready or has too many items inside. She said there is a cockroach problem and she can see them coming in and out under his door so this is a significant hazard to the property. She requests an Order of Possession effective May 31, 2015 and to recover filing fees.

Analysis:

I find that the landlord is entitled to an Order of Possession. I find there is good cause to end the tenancy. I find the tenant changed locks and refused entry to the landlord contrary to section 31 of the Act. I find these actions are jeopardizing the rights of other tenants and the landlord to have a clean, well maintained building as the cockroach inspection and control cannot be carried out in this unit and the weight of the evidence is that this unit has a cockroach problem.

The Tenant has not made application pursuant to Section 47(4) to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective May 31, 2015 as requested by the landlord.

I advised the landlord of their legal right to enter the unit under section 29 of the Act after giving at least 24 hours written Notice to the tenant.

Conclusion:

I find the landlord entitled to an Order of Possession effective May 31, 2015 and to recover filing fees for this Application.

I HEREBY ORDER that the landlord may recover the filing fee by deducting \$50 from the tenant's security deposit, leaving a balance of \$200 in trust.

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: May 20, 2015

Residential Tenancy Branch

