



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 stated it was served by posting it on the door on February 28, 2015 with a witness. A document served by posting it on the door is deemed to be received on the third day pursuant to section 90 of the Act. The effective date on the Notice is automatically corrected to April 30, 2015 pursuant to section 53 of the *Residential Tenancy Act* as a one month Notice to End Tenancy for cause must give a full month's notice and according to section 47(2) (b) end the tenancy on the day before the day in the month that rent is payable under the tenancy agreement. The landlord said the Application for Dispute Resolution was served by registered mail; it was verified online as successfully delivered. I find the documents were legally served 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

Only the landlord attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced May 2012, rent is \$400 a month and a security deposit of \$200 was paid.

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

- a) The tenant or a person permitted on the property by them
 - (i) Has significantly interfered with and unreasonably disturbed another occupant or the landlord;
 - (ii) has seriously jeopardized the health, safety or lawful right of another occupant or the landlord;
 - (iii) put the landlord's property at significant risk.

The landlord said the tenant has housekeeping problems and they had served a Notice to End Tenancy previously but she helped him clean up and they did not enforce it. However, the clean up did not last long and he got a dog which caused other problems. They cannot get into the unit as the tenant won't let them enter and he has the door blocked with a lot of his belongings. The dog was taken away by animal control people because of its problems; it had fleas and they now have fleas everywhere on that floor including the common bathroom so other tenants have to spray their ankles. They have sprayed 18 units to try to deal with this. As the tenant won't let them in and he has the door blocked, they cannot get in to spray his unit. She stated other tenants are suffering, having their health jeopardized and the landlord's property is put at risk.

The landlord requests an Order of Possession as soon as possible and to recover the filing fee for this Application.

Analysis:

I find that the landlord is entitled to an Order of Possession. The Tenant has not made application pursuant to Section 47 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 two days from service.

Furthermore, I find the weight of the evidence is that the tenant's behaviour of keeping a dog with fleas, having poor housekeeping and refusing entry for spraying:

- (i) Has significantly interfered with and unreasonably disturbed another occupant or the landlord;
- (ii) has seriously jeopardized the health, safety or lawful right of another occupant or the landlord;
- (iii) put the landlord's property at significant risk.
- (iv)

Conclusion:

I find the landlord entitled to an Order of Possession effective two days from service and to recover the filing fee for this Application.

I HEREBY ORDER that the landlord may recover the filing fee by deducting \$50 from the tenant's security deposit which will leave a balance of \$150 in trust for the tenant.

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

