



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession pursuant to a 2 Month Notice to End Tenancy for Landlord's Use. The tenants did not appear but they had filed a letter in advance of the hearing advising that:

- They intended to comply with the Notice to End Tenancy.
- They would not be appearing at the hearing.
- They did not think they should have to pay the landlord's filing fee.

Issue(s) to be Decided

Is the landlord entitled to an order of possession and, if so, on what terms?

Background and Evidence

The tenancy commenced as a one year fixed term tenancy and has continued thereafter as a month-to-month tenancy. The monthly rent of \$925.00 is due on the 15th day of the month.

On March 2, 2015 the landlord issued and served a 2 Month Notice to End Tenancy for Landlord's Use with an effective date of May 14, 2015.

The tenants did not file an application disputing the notice.

In the hearing the landlord indicated that he is prepared to waive the request for reimbursement of the fee he paid to file this application for dispute resolution.

Analysis

Section 49(9) of the *Residential Tenancy Act* states that if a tenant who has received a 2 Month Notice to End Tenancy for Landlord's Use does not make an application for dispute resolution they are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. In this case, in addition to not disputing the notice the tenants have indicated their intention to comply with the notice.

Section 55(2)(b) allows a landlord to request an order of possession when 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. Accordingly, the landlord is entitled to an order of possession.

The effective date of the notice complies with section 49(2) and so the date on the order of possession will be May 14, 2015.

Conclusion

An order of possession effective 1:00 pm, May 14, 2015, is granted to the landlord. If necessary, this order may be filed in the Supreme Court and enforced as an order of that court.

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 01, 2015

Residential Tenancy Branch

