



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 April 8, 2015 to be effective May 10, 2015 and the landlord gave sworn evidence that it was served to the tenant by posting it on the door and also in his mail box and the Application for Dispute Resolution was served by registered mail. It was verified online that delivery was attempted, notices were left and the registered mail was available for pickup from June 9, 2015 to June 27, 2015 when it was returned to the sender. I find the tenant is deemed to be served with the Application/Notice of Hearing pursuant to sections 89 and 90 of the Act.

The effective date on the Notice is automatically corrected to May 31, 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.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is cause to end the tenancy 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 evidence is that the tenancy commenced December 2012, rent is \$600 a month and a security deposit of \$300 was paid.

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

- a) The tenant or a person permitted on the property by them has:
 - (i) Significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - (ii) 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 problems were caused by the tenant's hoarding behaviour. This has caused an infestation of roaches which are now migrating from the tenant's suite into others in the building; the smell from the tenant's unit and the roaches are significantly interfering with the peaceful enjoyment of other residents and several are threatening to move unless this tenant changes his behaviour or moves. The roaches have invaded the smoke detectors in the tenant's unit and caused them to malfunction which causes a risk of fire to others and the building. The Fire Service has issued an Order for the tenant to clean up due to this risk, Pest Control has reported negatively on the conditions in the suite and the landlord has issued many warning letters. The landlord provided the reports and letters in evidence plus graphic photographs showing the condition of the unit. The landlord said they have done all they can but the tenant just ignores the concerns. He requests an Order of Possession as soon as possible.

Analysis:

Section 47(4) of the Act provides that if a tenant does not dispute a Notice to End Tenancy within 10 days, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice. I find this tenant did not dispute the notice and his tenancy ended on May 31, 2015 (as corrected).

Furthermore, I find the landlord's evidence credible that the tenant's hoarding behaviour has reached the point where it is significantly interfering with and unreasonably disturbing other occupants and the landlord, jeopardizing their health and safety and putting the landlord's property at significant risk. The landlord's evidence is well supported by the reports and photographs in evidence which state that the hoarding behaviour has caused an infestation of roaches in the tenant's unit which is migrating to other units and affecting the smoke detectors. I find the landlord entitled to an Order of Possession effective two days from service.

Conclusion:

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

I HEREBY ORDER that the landlord may recover the \$50 filing fee by deducting it from the tenant's security deposit.

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: July 23, 2015

Residential Tenancy Branch

