



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession based on a one-month Notice to End Tenancy for cause, and a request for recovery of the \$50.00 filing.

The applicant testified that the respondent was served with notice of the hearing by registered mail that was mailed on August 5, 2015; however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

The landlord testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not the landlord has established the right to an Order of Possession and recovery of his filing fee.

Background and Evidence

The landlord testified that this tenancy began approximately 2 years ago and has a monthly rent of \$800.00.

Landlord further testified that on June 3, 2015 the tenant was personally served with a one-month Notice to End Tenancy for cause and to date she has not filed any dispute of that notice, nor has she vacated.

The landlord further testified that although they have collected rent after the date that the tenancy was to end, they have always informed the tenant that they still expect her to vacate the rental unit, and that they are only accepting rent while waiting for the arbitration hearing.

The landlords are therefore requesting an Order of Possession for as soon as possible, stating that the problems with the tenant are still ongoing with the police attending the unit on a regular basis, and as recently as last week.

Analysis

I accept the landlord sworn testimony that the tenant was served with a complete section 47 Notice to End Tenancy by personal service on June 3, 2015.

Section 47(5) of the Residential Tenancy Act states:

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

In this case the tenant has filed no dispute of the Notice to End Tenancy, and therefore the tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of the notice and must vacate the rental unit.

The tenant has paid rent for a period after the effective end of tenancy date; however I accept the landlord's testimony that the tenant has always been informed that they still expect her to vacate the rental unit and that rent was only accepted while waiting for this hearing.

It is my finding therefore that the landlords to have the right to an Order of Possession pursuant to sections 47 and 55 of the Residential Tenancy Act and I therefore allow that request.

I also allow the request for recovery of the \$50.00 filing fee.

Conclusion

I have issued an Order of Possession that is enforceable two days after service on the tenant.

I have issued a Monetary Order in the amount of \$50.00.

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: October 08, 2015

Residential Tenancy Branch