



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This was a hearing with respect to an application by the landlord for an order for possession pursuant to a two month Notice to End Tenancy for landlord's use. The hearing was conducted by conference call. The named landlord, who is the purchaser of the rental property called in and participated in the hearing. The tenant did not attend, although he was served with the application and Notice of Hearing sent by registered mail on October 7, 2015.

Issue(s) to be Decided

Is the applicant entitled to an order for possession pursuant to a Notice to End Tenancy for landlord's use dated July 28, 2015?

Background and Evidence

The rental unit is a residence in Richmond. The applicant is the purchaser of the rental property and he has the written authorization of the former landlord to bring this application on the former landlord's behalf.

The former landlord, Mr. D.K. entered into an agreement of purchase and sale to sell the rental property to the applicant. The sale completed and the applicant was to have possession of the rental property on October 7, 2015.

Pursuant to the written request of the applicant the landlord, D.K. personally served the tenant with a two month Notice to End Tenancy for landlord's use dated July 28, 2015. The Notice to End Tenancy required the tenant to move out of the rental unit by September 30, 2015. The reason for the Notice to End Tenancy was that all the conditions for sale of the unit had been satisfied and the purchaser asked the landlord in

writing to give the Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

The tenant has not disputed the Notice to End Tenancy. He was provided with free rent for the month of September. He has not paid rent since then, but he has refused to move out of the rental unit and he continues to occupy the unit. The applicant has been unable to move in as planned and the tenant's continued occupancy has caused him significant hardship.

Analysis

Section 49(9) of the *Residential Tenancy Act* provides that if a tenant does not make an application to dispute a Notice to End Tenancy for landlord's use within 15 days after receiving it, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the unit by that date.

Conclusion

The tenant has failed or refused to vacate the rental unit as required by the *Residential Tenancy Act*. The tenancy has ended pursuant to the Notice to End Tenancy and the applicant is entitled to an immediate order for possession. The order will be effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

The applicant is entitled to recover the \$50.00 filing fee for this application and I grant the landlord an order under section 67 in the said amount. This order may be registered in the Small Claims 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: December 09, 2015

Residential Tenancy Branch

