



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 3060 Commercial Drive Limited Partnership
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and recovery of their filing fee. Despite having been served with the application for dispute resolution and notice of hearing sent via registered letter on November 18, the tenant did not participate in the conference call hearing.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord's undisputed evidence is as follows. On October 24, the landlord sent to the tenant via registered letter, a 2 month notice to end tenancy for landlord's use of property (the "Notice").

Analysis

I accept the landlord's undisputed testimony and I find that the landlord mailed the Notice to the tenant on October 24. Section 90 of the Act provides that when documents are mailed, they are deemed received the 5th day after mailing. I find that the tenant is deemed to have received the Notice on October 29, 2015. The tenant did not apply to dispute the Notice within 15 days of deemed receipt and therefore pursuant to section 49(9) is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The landlord testified that he spoke with the tenant and agreed to extend the effective date to January 31, 2016.

I find that the landlord is entitled to an order of possession effective January 31, 2016. I grant the landlord that order, which must be served on the tenant. If the tenant fails to comply with the order, it may be filed in the Supreme Court for enforcement.

As the landlord believed the tenant would comply with their agreed upon end of tenancy date, I find that this application may not have been required and therefore I decline to award the landlord the cost of his application fee.

Conclusion

The landlord is granted an order of possession.

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: January 13, 2016

Residential Tenancy Branch

