



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for an Order of Possession for breach of an agreement, and for monetary compensation for recovery of the filing fee for the cost of the application.

One of the named landlords attended the hearing and gave affirmed testimony, however no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord. The landlord testified that the tenant was served with the Landlord's Application for Dispute Resolution and notice of this hearing by registered mail on December 19, 2015 and has provided a copy of a Canada Post cash register receipt bearing that date as well as a Registered Domestic Customer Receipt addressed to the tenant, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession for breach of an agreement?

Background and Evidence

The landlord testified that this month-to-month tenancy began on October 15, 2015 and the tenant still resides in the rental unit. Rent in the amount of \$675.00 per month is payable in advance on the 31st day of each month and is currently in arrears for the months of January and February, 2016. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$337.50 which is still held in trust by the landlords, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided.

The landlord further testified that on November 29, 2015 the landlord personally served the tenant with a 1 Month Notice to End Tenancy for Cause, a copy of which has also been provided. The notice is dated November 29, 2015 and contains an effective date of vacancy of December 31, 2015. The reasons for issuing the notice are:

- Tenant has allowed an unreasonable number of occupants in the unit/site;
- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
 - put the landlord's property at significant risk;
- Tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;
 - jeopardize a lawful right or interest of another occupant or the landlord;
- Breach of a material term of a tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord testified that the tenant and the tenant's guests have been causing disturbances involving police and are leaving litter behind, causing damage to the property and threatening the landlord.

The tenant has not served the landlords with an application for dispute resolution disputing the notice, and the landlords seek an Order of Possession and monetary compensation for recovery of the filing fee.

Analysis

The *Residential Tenancy Act* states that once a tenant is served with a 1 Month Notice to End Tenancy for Cause the tenant has 10 days to dispute the notice by filing an application for dispute resolution. If the tenant fails to do so the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, I accept the testimony of the landlord that he personally handed the 1 Month Notice to End Tenancy for Cause to the tenant on November 29, 2015. I have reviewed the notice and I find that it is in the approved form and contains information required by the *Act*. The landlord testified that the landlords have not been served by the tenant with an application for dispute resolution and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord to retain \$50.00 from the security deposit currently held in trust, and to deal with the balance of the security deposit according to the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further order the landlord to keep \$50.00 of the \$337.50 security deposit as recovery of the filing fee, and I order the landlord to deal with the balance of the security deposit in accordance with the *Residential Tenancy Act*.

This order is final and binding and may be enforced.

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: February 03, 2016

Residential Tenancy Branch

