



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUPERMAN PROPERTY MNGMT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on June 15, 2016. The Landlord filed seeking to obtain an Order of Possession for cause.

The hearing was conducted via teleconference and was attended by the Landlord who gave affirmed testimony. The Landlord provided affirmed testimony that each Tenant was personally served notice of this application and this hearing on June 21, 2016.

Based on the undisputed submissions from the Landlord, I find that each Tenant was sufficiently served with the application for Dispute Resolution and Notice of this hearing, pursuant to Section 89(2) of the *Act*. As such, I proceeded to hear the undisputed evidence of the Landlord, in the absence of the Tenants.

Issue(s) to be Decided

1. Has the Landlord proven entitlement to an Order of Possession?

Background and Evidence

The Landlord submitted evidence that the Tenants entered into a month to month written tenancy agreement that began on February 1, 2016. Rent of \$900.00 was payable each month.

The Landlord testified that rent was payable on the first of each month. She clarified the tenancy agreement did not represent the amount paid for security deposit; rather the payment of \$950.00 that was received on February 1, 2016 was for the first month's rent. The Landlord asserted she was paid \$475.00 as the security deposit plus \$50.00 as the pet deposit and those payments were also received on February 1, 2016.

The Landlord submitted evidence of: drug dealing; traffic; complaints; police always there; noise; and other tenants are scared, regarding the events occurring in this rental unit.

The Landlord personally served the Tenant, C.L. with the 1 Month Notice issued June 2, 2016; listing an effective date of July 2, 2016. The Notice was issued pursuant to Section 47(1) of the Act for the following reasons:

- 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
 - 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

The Landlord testified that the Tenants' possessions are still in the rental unit.. As such, they are requesting an Order of Possession for as soon as possible.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenants who did not appear despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Landlord and corroborated by their evidence.

Section 53 (1) of the Act provides that if a landlord or tenant gives notice to end a tenancy effective on a date that does not comply with this Division, the notice is deemed to be changed in accordance with subsection (2) as applicable.

Subsection (2) of Section 53 states that if the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section.

Upon review of the 1 Month Notice to End Tenancy issued June 2, 2016, I find the Notice was served upon the Tenants in a manner that complies with the Act. As rent is payable on the first of each month, the effective date of the Notice automatically corrects to **July 31, 2016**, pursuant to section 53 of the Act.

Section 47(4) of the Act stipulates that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

In this case the Tenants would have had to file their application for dispute no later than June 12, 2016. At the time the Landlord filed their application for Dispute Resolution on June 15, 2016, the Tenants had not made application to dispute the 1 Month Notice.

Section 47(5) of the Act stipulates that 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.

Based on the above, I find the Landlord submitted sufficient evidence to prove the Tenants were conclusively presumed to have accepted the tenancy ended on July 31, 2016 and the Tenants must now vacate the rental unit, pursuant to section 47 of the *Act*. Accordingly, I grant the Landlord's application.

The Landlord has been issued an Order of Possession effective **July 31, 2016 at 1:00 p.m. after service upon the Tenants**. In the event that the Tenants do not comply with this Order it may be filed with the Supreme Court and enforced as an Order of that Court.

Conclusion

The Landlord has been successful with their application and has been granted an Order of Possession.

This decision is final, legally binding, and 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 25, 2016

Residential Tenancy Branch

