



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Landlord on June 13, 2016. The Landlord filed seeking an Order of Possession based on the end of tenancy stipulated in the tenancy agreement and to recover the cost of the filing fee.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance on behalf of the Tenants. The Landlord provided affirmed testimony that each Tenant was served notice of this application and this hearing by registered mail on June 15, 2016. Canada Post tracking information was submitted into evidence. The Landlord testified he posted copies of his application for Dispute Resolution documents to the door of the rental unit, one for each Tenant.

Section 90(a) of the *Residential Tenancy Act* (the “Act”) states that a document served by mail is deemed to have been received five days after it is mailed. A party cannot avoid service by failing or neglecting to pick up mail.

Based on the undisputed submissions of the Landlord I find that each Tenant was deemed served notice of this application and proceeding on June 20, 2016, five days after they were mailed, pursuant to section 90 of the *Act*. Accordingly, I continued in the absence of the Tenants.

Issue(s) to be Decided

Has the Landlord proven entitlement to an Order of Possession?

Background and Evidence

The Landlord submitted documentary evidence that the parties entered into a fixed term tenancy agreement that began on August 1, 2015 and was scheduled to end on July 31, 2016.

Section 4D of the tenancy agreement was selected and states:

At the end of this time the tenancy is ended and the tenant must vacate the rental unit.

IF YOU CHOOSE D BOTH THE LANDLORD AND TENANT MUST INITIAL HERE

[Reproduced as written]

The tenancy agreement submitted into evidence displayed initials for the Landlord and each Tenant in section 4D as described above.

The Landlord testified he reminded the Tenants of the requirement for them to vacate the rental unit on July 31, 2016 as per the tenancy agreement. He stated they did not indicate they were going to move out so he is seeking an Order of Possession effective July 31, 2016 at 1:00 p.m. to ensure he regains possession.

Analysis

Section 55(2)(c) of the *Act* stipulates a landlord may request an order of possession of a rental unit by making an application for dispute resolution if the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term.

After careful consideration of 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 his evidence. Accordingly, I grant the Landlord's application for an Order of Possession effective **July 31, 2016 at 1:00 p.m.**, after service upon the Tenants.

Section 72(1) of the *Act* stipulates that the director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] or 79 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.

The Landlord has succeeded with their application; therefore, I award recovery of the **\$100.00** filing fee, pursuant to section 72(1) of the *Act*.

The Tenants are hereby ordered to pay the Landlord the amount of \$100.00 forthwith.

In the event the Tenants do not comply with the above order, the Landlord has been issued a Monetary Order in the amount of **\$100.00** which may be enforced through Small Claims Court upon service to the Tenants.

Conclusion

The Landlord was successful with his application and was granted an Order of Possession and a Monetary Order.

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 20, 2016

Residential Tenancy Branch