



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes opl

Introduction

The landlords have applied for dispute resolution of a dispute in the tenancy at the above noted address, and an Order of Possession, based upon an undisputed two month Notice to End Tenancy.

The tenant did not attend the hearing, although properly served with the notice of this hearing by way posting on August 5, 2016. I accept the landlords' submission that these materials were confirmed by counsel for the tenant to have been received. As the claim is strictly for an Order of Possession, I find that the service provisions of section 89(2) of the Residential Tenancy Act are satisfied.

Issues to Be Decided

- Is the landlord entitled to an Order of Possession?

Background and Evidence

This tenancy began in July, 2011, was originally for a fixed term, but reverted thereafter to a month to month tenancy. Monthly rent is \$1,384.00.

On August 27, 2016, January 3, 2014, the tenant was served a two month Notice To End Tenancy, effective to end the tenancy on June 30, 2016. No dispute of the notice was ever filed. The tenant has failed to vacate the premises, and although the tenant provided post-date cheques to the landlord, no rent cheques have been cashed by the landlord since March.

The Notice advised that a family member intended to move into the premises. In fact, the landlords' daughter has already moved to the area from Quebec ready to move into the premises, but has been obliged to live with her parents as the tenant had not given up possession.

Analysis

Section 49(9) of the Residential Tenancy Act provides that when a tenant does not make application to dispute a notice to end the tenancy for landlord use, the tenant is conclusively deemed to have accepted that the tenancy ends on the effective date of the notice. Accordingly on this basis, I find the tenancy ended June 30, 2016. As that date has passed, the landlord has established a right to possession. Given the time that has passed, it is appropriate that the Order be effective within 48 hours of service of the order upon the tenant.

The landlords remain at liberty to make further application for any losses arising from this tenancy, including but not limited to overholding rent.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective 48 hours following service upon the tenant. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

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: August 19, 2016

Residential Tenancy Branch