



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for the filing fee.

The notice of hearing was served on the tenant in person by the landlord, on August 04, 2016. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover the filing fee?

Background and Evidence

The tenancy started on November 01, 2015. The current monthly rent is \$800.00 due in advance on the first of each month. The rental unit is located in the basement of the landlord's home. The landlord lives upstairs.

The landlord stated that her mother lives with her and has problems climbing stairs. The landlord decided to use the basement suite for her mother and on June 04, 2016 she served the tenant with a notice to end tenancy.

Even though the landlord wanted to end the tenancy for landlord's use of property, she served the tenant with a one month notice to end tenancy for cause. The landlord did not tick off any box on page two of the form. Under details of the cause the landlord wrote "*Family member has to move into the suiet (landlord's mother)*"

The notice is dated June 03, 2016 and has an effective date of August 03, 2016. The landlord stated that she handed the notice to the tenant in person on June 04, 2016 and the tenant accepted the notice but did not move out. As of the date of this hearing on September 22, 2016, the tenant was still in occupation of the rental unit.

The landlord stated that the tenant owes rent for September and also owes \$150.00 from a previous rent.

Analysis

Section 52 of the *Residential Tenancy Act* states that in order to be effective, a notice to end a tenancy must be in writing and when given by a landlord to a tenant, must be in the approved form.

In this case the landlord served the tenants with a one month notice to end tenancy for cause when they intended to end the tenancy for landlord's use of property.

Since the notice was not in the approved form, I find that the notice was not valid and therefore, I set it aside. The tenancy will continue.

The landlord has not proven her case and must therefore bear the cost of filing this application.

Conclusion

The notice to end tenancy is set aside. The tenancy will continue.

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: September 23, 2016

Residential Tenancy Branch