



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, FF

Introduction

This is the Landlord's Application for Dispute Resolution seeking an Order of Possession and to recover the cost of the filing fee from the Tenant.

Both parties signed into the Hearing and gave affirmed testimony at the Hearing. The Landlord testified that he mailed the Notice of Hearing Documents to the Tenant, via registered mail, on August 29, 2016, but the documents were returned to him, "unclaimed". The Landlord testified that he served the Tenant with the Notice of Hearing documents by handing the documents to the Tenant on September 13, 2016.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenant?

Background and Evidence

The Landlord posted the One Month Notice to End Tenancy to the Tenant's door on August 31, 2016. He stated that the Tenant's rent is paid directly by the Ministry, usually on or about the 23rd day of each month.

The Tenant acknowledged receipt of the One Month Notice to End Tenancy on August 31, 2016. He stated that he received another copy of the Notice from "the downstairs tenant" two days later.

The Tenant did not make an Application for Dispute Resolution seeking to cancel the Notice to End Tenancy.

The Landlord stated that he was prepared to negotiate a little extra time for the Tenant to find suitable alternate accommodation.

Analysis

For the purposes of determining the effective date of the Notice, I find that rent is due on the 23rd of each month.

I find that the Tenant was served with the Notice of Hearing documents on August 31, 2016.

Section 47 of the Act provides, in part:

- 47** (2) A notice under this section must end the tenancy effective on a date that is
- (a) not earlier than one month after the date the notice is received, and
 - (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.
- (4) 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.
- (5) 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.

[reproduced as written]

The Tenant did not make application to cancel the Notice to End Tenancy within 10 days of receipt of the Notice and is therefore conclusively presumed to have accepted that the tenancy ends on October 24, 2016. I find that the Landlord is entitled to an Order of Possession.

The Landlord has been successful in his Application and I find that he is entitled to recover the cost of the \$100.00 filing fee from the Tenant. Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct \$100.00 from the security deposit. The remainder of the security deposit must be applied in accordance with the provisions of the Act.

Conclusion

I hereby provide the Landlord with an Order of Possession **effective 2 days after service of the Order upon the Tenant, but in any event not before 1:00 p.m., October 24, 2016.**

The Landlord may deduct \$100.00 from the security deposit for recovery of the filing fee. The remainder of the security deposit must be applied in accordance with the provisions of the Act.

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: October 19, 2016

Residential Tenancy Branch