



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the "Act") for an order of possession for landlord's use of property.

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that on September 16, 2016 he left the landlord's application for dispute resolution hearing package in the mail box of the rental unit where the tenant resides. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on September 19, 2016, three days after it was served.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord testified that he assumed this tenancy on August 31, 2016, when he purchased the property from the previous landlord. As per the testimony of the landlord, the tenancy began on May 1, 2016 on a month-to-month basis. Rent in the amount of \$950.00 is payable on the first of each month. The tenant remitted a security deposit in the amount of \$450.00 at the start of the tenancy. The tenant continues to reside in the rental unit.

The landlord testified that the tenant was personally served with the 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice"), dated August 31, 2016 on the same date, at the rental unit. The notice indicates an effective move-out date of October 31, 2016. In accordance with sections 88 and 90 of the *Act*, I find that the

tenant was deemed served with the landlord's 2 Month Notice on August 31, 2016, the day it was personally served.

Analysis

Section 49 of the *Act* provides that upon receipt of a notice to end tenancy for landlord's use the tenant may, within 15 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does not file an application, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must move out of the rental unit.

Based on the landlord's testimony and the notice before me, I find that the tenant was served with an effective notice. As the tenant did not file an application to dispute the notice within 15 days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must move out of the unit. As this has not occurred, I find that the landlord is entitled to a two (2) day order of possession, pursuant to section 55 of the *Act*.

Conclusion

I grant an order of possession to the landlord effective **two (2) days after service on the tenant**.

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: November 09, 2016

Residential Tenancy Branch