



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

This hearing dealt with an application by the landlord for an order of possession. Both parties attended the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

This tenancy began on January 1, 2015. The rent is \$525 per month. On August 2, 2016 the landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use. The tenant did not dispute the Notice. The tenant has still not vacated the rental unit.

The Notice to End Tenancy contained an incorrect date in that it specified that the effective date (the date the tenant must move out of the rental unit) as being September 30, 2016. However, pursuant to Section 53(2) of the Act that effective date is automatically changed to October 31, 2016 which is the earliest date the landlord's Notice could have taken effect. If the landlord had wanted the Notice to be effective September 30, 2016 it would have had to have been dated and served no later than August 31, 2016.

The tenant testified that he knows he has to move out of the unit but that he is having a hard time finding another apartment. The landlord testified that they have tried to give the tenant extra time but that they are now under pressure with a close family member needing to move into the unit.

Analysis

Section 47(9) of the Act says that if a tenant who has received a 2 Month Notice to End Tenancy does not make an application for dispute resolution disputing the Notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date.

The tenant should have vacated the unit by October 31st but failed to do so. Accordingly, the landlord is entitled to an order of possession effective two days from the date of service on the tenant.

Conclusion

Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

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