



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

On November 2, 2016, the Landlord submitted an Application for Dispute Resolution requesting an order of possession, and to recover the filing fee for the Application.

The matter was set for a conference call hearing. The Landlord attended the hearing; however, the Tenant did not. The Landlord testified that she personally served the Tenant with the Notice of Hearing on November 6, 2016. I find that the Tenant was served with the Notice of Hearing in accordance with section 89 of the Act.

The hearing process was explained and the Landlord was asked if they had any questions. The Landlord provided affirmed testimony and was provided the opportunity to present her evidence, orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord testified that the tenancy began on June 1, 2016, as a month to month tenancy. Rent in the amount of \$950.00 is payable on the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$500.00.

The Landlord testified that she personally served the Tenant with a 2 Month Notice To End Tenancy For Landlord's Use Of Property dated August 31, 2016. The Landlord testified that the 2 Month Notice was served on August 31, 2016.

A witness for the Landlord J.W. testified that she witnessed the Landlord serve the Tenant with the 2 Month Notice on August 31, 2016.

The Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 15 days after it is assumed to be received by filing an Application for Dispute Resolution at the Residential Tenancy Branch. If a Tenant does not file an Application within 15 days, the Tenant is presumed to accept that the tenancy is ending and must move out of the rental unit by the date set out on page 1 of the Notice. If the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

The 2 Month Notice states the rental unit will be occupied by the Landlord or the Landlord's spouse or a close family member of the Landlord or the Landlord's spouse.

There is no evidence before me that the Tenant made an Application for Dispute Resolution to dispute the 2 Month Notice.

The Notice indicates that the Tenant must move out of the rental unit on October 31, 2016.

The Landlord testified that the Tenant failed to move out of the unit on the effective date and she requests an order of possession.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant received the 2 Month Notice To End Tenancy For Landlord's Use Of Property dated August 31, 2016, and failed to dispute the Notice within 15 days of receiving it.

Pursuant to section 49(9) of the Act 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.

I find that the Tenant has failed to vacate the rental unit and I grant the Landlord an order of possession effective two (2) days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Section 72 of the Act gives me the authority to order the repayment of a fee for Dispute Resolution. Since the Landlord was successful with her Application, I order that the Landlord can retain the amount of \$100.00 from the Tenant's security deposit for the cost of the filing fee.

Conclusion

The Tenant failed to dispute the 2 Month Notice To End Tenancy For Landlord's Use Of Property dated August 31, 2016, and failed to vacate the rental unit.

I grant the Landlord an order of possession effective two days after service on the Tenant. The Tenant must be served with the order of possession.

The Landlord is permitted to retain \$100.00 from the Tenant's security deposit for the cost of the filing fee.

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: December 12, 2016

Residential Tenancy Branch