



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession for landlord's use of property.

The landlord attended the hearing with 2 other persons, one of whom acted as agent for the landlord. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call. The landlord testified under affirmation that the tenant was served with the Landlord Application for Dispute Resolution and notice of this hearing personally on November 15, 2016 with his wife as a witness. I accept that undisputed testimony, and I find that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for landlord's use of property?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on July 1, 2014 and the tenant still resides in the rental unit. Rent in the amount of \$1,100.00 per month is payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$550.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a basement suite, and the landlord resides in the upper level of the home. A copy of the tenancy agreement has been provided, and the tenant is in arrears of rent the sum of \$200.00 for the month of November, 2016. The landlord did not collect any rent for the month of December, 2016 as compensation required under the *Act*.

The tenant has not served the landlord with an application for dispute resolution.

The landlord testified that on October 23, 2016 he personally served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property. A copy has been provided and it is dated October 23, 2016 and contains an effective date of vacancy of December 31, 2016. The reason for issuing it states: The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse).

Analysis

The *Residential Tenancy Act* states that once served with a 2 Month Notice to End Tenancy for Landlord's Use of Property, the tenant has 15 days to dispute it by filing and serving the landlord with an application for dispute resolution. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy.

I have reviewed the notice to end the tenancy, and I find that it is in the approved form and contains information required by the *Act*. The landlord's agent testified that the tenant has not served the landlord with an application disputing the notice, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee. I order the landlord to retain \$100.00 of the \$550.00 security deposit to satisfy that amount, and to deal with the balance of the security deposit in accordance with the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective December 31, 2016 at 1:00 p.m. and the tenancy will end at that time. I further order the landlord to keep \$100.00 of the \$550.00 security deposit to satisfy the filing fee paid by the landlord, and I order the landlord to deal with the balance of the security deposit in accordance with the *Residential Tenancy Act*.

This order is final and binding and may be enforced.

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 28, 2016

Residential Tenancy Branch