



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

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

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. The landlord's two agents (collectively the "landlord") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord's confirmed they are agents of the landlord's company named in this application, and have authority to speak on its behalf.

The landlord testified that on January 26, 2017 he forwarded the landlord's application for dispute resolution hearing package via registered mail to the tenant. The landlord provided a Canada Post receipt and tracking number as proof of service. Based on the testimony of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the application on January 31, 2017, the fifth day after its registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Background and Evidence

As per the submitted tenancy agreement and testimony of the landlord, the tenancy began on September 1, 2014 on a fixed term until February 28, 2015 at which time the tenancy continued on a month-to-month basis. The tenant remitted a security deposit in the amount of \$212.50 at the start of the tenancy. The tenant continues to reside in the rental unit.

The landlord testified that he served the tenant with the landlord's 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), dated January 2, 2017 on the same date, by way of posting to the rental unit door where the tenant is residing. The 1 Month Notice indicates an effective move-out date of January 16, 2017. The landlord provided a signed, witness proof of service. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 1 Month Notice on January 5, 2017, three days after its posting.

The grounds to end the tenancy cited in that 1 Month Notice were;

- the tenant has allowed an unreasonable number of occupants in the unit/site
- the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord
- the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk
- the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property
- the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant
- the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within 10 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 ends 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 10 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must move out of the unit. Pursuant to section 53 of the *Act*, the effective date of the 1 Month Notice is corrected to February 28, 2017. Therefore I find the landlord is entitled to an order of possession effective February 28, 2017 at 1:00 p.m.

Conclusion

I grant an order of possession to the landlord effective **February 28, 2017 at 1:00 p.m.**

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: February 20, 2017

Residential Tenancy Branch

