



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 to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;

The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord gave sworn oral testimony that copies of the landlord's dispute resolution hearing package was personally served on the tenant on January 28th, 2017 in the presence of a witness. In accordance with section 89 the *Act*, I am satisfied that the tenant was served with the landlord's dispute resolution hearing package.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession pursuant to a One Month Notice to End Tenancy for Cause?

Background and Evidence

The tenancy began on or about August 1, 2016. Rent in the amount of \$740.00 is payable in advance on the first day of each month. The landlord issued a One Month Notice to End Tenancy for Cause on December 22, 2016 for the following reason: *the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.*

The landlord testified that the tenant smokes cigarettes and marijuana in the unit at all times despite it there being a no smoking clause in the tenancy agreement. The landlord testified that they have given numerous warnings to the tenant, yet he will not comply. The landlords testified that the tenants smoking have gotten so bad that the

upstairs tenant and her young children have been affected. The landlord testified that the upstairs tenant is withholding rent until the subject tenant moves out. The landlord testified that the subject tenant has promised to move out for several months, yet still resides in the unit. The landlord testified that the upstairs tenant is an excellent tenant, and is fearful she is going to move out if the subject tenant remains.

Analysis

When a landlord issues a notice under section 47 of the Act they must provide sufficient evidence to justify the issuance of that notice. The landlord has provided sufficient evidence to show that the tenant has *“the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant”*.

The tenant has not filed an application to dispute the notice, has not submitted any disputing evidence or participated in this hearing. Based on the documentation before me and in the absence of any disputing evidence, I find that the landlord is entitled to an order of possession. The form and content of the Notice is in accordance with the Act. The One Month Notice to End Tenancy for Cause dated December 22, 2016 is in full effect and force. The tenancy is terminated.

Conclusion

The landlord is granted an order of possession.

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 22, 2017

Residential Tenancy Branch