



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding H.W. ROOMS INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

On February 17, 2017, the Landlord submitted an Application for Dispute Resolution for an order of possession, and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord D.Z. testified that he served the Tenant with the Notice of Hearing, by posting the Notice of Hearing to the Tenant's door. I find that the Tenant has been duly served with the Notice of Hearing in accordance with sections 89 and 90 of the Act.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

- Is the Landlord entitled to an order of possession for cause?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that he purchased the property in July 2016, and the Tenant was already living in the rental unit. The Landlord does not have a record of when the tenancy began. Rent in the amount of \$450.00 is to be paid on the first day of each month. The Tenant paid a \$225.00 security deposit to the Landlord.

The Landlord testified that he issued a 1 Month Notice to End Tenancy for Cause ("the Notice") by posting it on the Tenant's door on December 13, 2016. The Landlord provided a proof of service document wherein the Landlord D.Z. swears he observed the posting of the 1 Month Notice on the Tenants door on December 13, 2016.

The reason for ending the tenancy within the Notice is as follows:

- Tenant has caused extraordinary damage to the unit/site property /park.

The Notice states the Tenant must move out of the rental unit by January 31, 2017. The Notice informed the Tenant that he has the right to dispute the Notice within 10 days after receiving it. The Notice informed the Tenant that if an application to dispute the Notice is not filed within 10 days, he is presumed to accept the Notice and must move out of the rental unit on the effective date of the Notice.

There is no evidence before me that that the Tenant made an application to dispute the Notice.

The Landlord seeks an order of possession effective immediately, and to recover the cost of the filing fee.

Analysis

Section 47 (5) of the Act states that if a Tenant who has received a Notice under this section does not make an application for dispute resolution in accordance with subsection (4), the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant did not apply to dispute the Notice, and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, 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. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution. I order that the Landlord can keep the amount of \$100.00 from the Tenant's security deposit in satisfaction of this claim.

Conclusion

The Tenant did not attend the hearing and did not file to dispute the Notice. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession effective two (2) days after service on the Tenant, and I order that the Landlord can keep \$100.00 from the Tenant's security deposit to pay for the Landlord's 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: March 15, 2017

Residential Tenancy Branch