



Dispute Resolution Services

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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

This is an application brought by the Landlord(s) requesting an Order of Possession based on a Notice to End Tenancy that was given for cause, and requesting recovery of the \$100.00 filing fee.

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicants have established the right to an Order of Possession and recovery of their filing fee.

Background and Evidence

This tenancy began on October 1, 2016 with a monthly rent of \$750.00, due on the first of each month.

The tenants paid a security deposit of \$375.00 at the beginning of the tenancy.

On December 19, 2016, the landlords posted a one month Notice to End Tenancy on the tenants door, with an end of tenancy date of January 31, 2017.

The landlords testified that the tenants have failed to comply with a one-month Notice to End Tenancy, and have stated that they are not going to move out of the rental unit, and therefore they are requesting an Order of Possession for as soon as possible, as the end of tenancy date is well past.

The landlords further testified that the tenants have not filed any dispute of the Notice to End Tenancy, and all rent that they have collected since serving the notice was accepted for use and occupancy only.

The tenants testified that they did receive the Notice to End Tenancy however they did not file a dispute of the Notice to End Tenancy, because they did not know that it meant they had to move out.

Analysis

Section 47(5) of the Residential Tenancy Act states:

- (5) 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
 - (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
 - (b) must vacate the rental unit by that date.

As stated above, in this case, the tenants have admitted that they received the Notice to End Tenancy, and have also admitted that they did not file a dispute of the notice, therefore the tenants are conclusively presumed to have accepted that this tenancy ends, and they must vacate the rental unit.

It is my decision therefore that, since the tenants have failed to comply with the Notice to End Tenancy, the landlord does have the right to an Order of Possession and recovery of the filing fee.

Conclusion

I have issued an Order of Possession that is enforceable two days after service on the tenants.

I have allowed the landlords request for recovery of the \$100.00 filing fee, and I therefore Order that the landlords may retain \$100.00 of the tenants security deposit.

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 07, 2017

Residential Tenancy Branch