



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUPERMEN PROPERTY MANAGEMENT INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This hearing was scheduled for 11:00 a.m. on this date, via teleconference call, to deal with a landlord's application for an Order of Possession for cause. The landlord appeared at the hearing but the tenant did not despite leaving the teleconference call open until 11:12 a.m.

The landlord testified that she posted the hearing documents on the door of the rental unit on March 8, 2017. Since this application pertains to an Order of Possession, posting the hearing package on the door of the rental unit complies with section 89(2) of the Act. Accordingly, I am satisfied that the tenant was duly served with notification of this proceeding and I continued to hear from the landlord without the tenant present.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord submitted a copy of tenancy agreement that provides for the start of the tenancy as being June 1, 2012 and requiring the tenant to pay rent on the first day of every month.

The landlord testified that she personally served the tenant with a 1 Month Notice to End Tenancy for Cause on January 27, 2017 at the rental unit with the owner of the property present as a witness.

The 1 Month Notice provided as evidence has a stated effective date of February 28, 2017. The tenant did not file an Application for Dispute Resolution to dispute the Notice and the landlord stated that the tenant continues to occupy the rental unit.

I noted that the 1 Month Notice before me is not signed by the landlord. The landlord testified that the copy given to the tenant was signed but the landlord's copy was not.

The landlord stated that Income Assistance continued to send the landlord payments for rent for the months of March 2017 and April 2017. Although the landlord would like to regain possession of the rental unit as soon as possible, the landlord was agreeable to an Order of Possession effective April 30, 2017 in recognition that monies were received for the month of April 2017.

Analysis

Section 55(2) and (3) of the Act provides as follows:

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(a) a notice to end the tenancy has been given by the tenant;

(b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;

(c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term;

(d) the landlord and tenant have agreed in writing that the tenancy is ended.

(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

[Reproduced as written with my emphasis underlined]

I accept the unopposed evidence of the landlord that a signed 1 Month Notice to End Tenancy was given to the tenant on January 27, 2017. Under section 47(5) of the Act, a tenant in receipt of a 1 Month Notice has 10 days after receiving the Notice to file an Application for Dispute Resolution to dispute it. If the tenant does not dispute it, the tenant is conclusively presumed to have accepted that the tenancy would end and the tenant will have to vacate the rental unit by the effective date. I further find that the time limit for the tenant to dispute the Notice has expired. Accordingly, I find the landlord entitled to an Order of Possession pursuant to section 55(2)(a) and (b) of the Act.

In recognition that payment has been received for the month of April 2017 I provide the landlord with an Order of Possession that is effective on April 30, 2017 pursuant to section 55(3) of the Act.

Since the landlord was successful in this Application, I award the landlord recovery of the \$100.00 filing fee. The landlord is provided a Monetary Order in the amount of \$100.00 to serve and enforce upon the tenant.

Conclusion

The landlord has been provided an Order of Possession effective on April 30, 2017 to serve and enforce upon the tenant.

The landlord has been provided a Monetary Order in the amount of \$100.00 to recover the filing fee paid for this Application from the tenant.

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: April 06, 2017

Residential Tenancy Branch