



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

On April 12, 2017, the Landlord submitted an Application for Dispute Resolution requesting an order of possession based on the issuance of a 2 Month Notice to End Tenancy for Landlord Use of Property ("the Two Month Notice").

The matter was set for a conference call hearing. The Landlord appeared at the hearing; however, the Tenant did not. The Landlord provided affirmed testimony that he served the Tenant with the Notice of Hearing by registered mail on April 15, 2017. The Landlord provided a copy of the registered mail receipt as proof of service. I find that the Tenant was served with the Notice of Hearing in accordance with sections 89 and 90 of the Act.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord testified that the tenancy began 8 or 9 years ago. Rent in the amount of \$600.00 is to be paid on the first day of each month.

The Landlord issued the Tenant a 2 Month Notice dated March, 2017. The effective date shown on the 2 Month Notice is May 31, 2017.

The Landlord testified that the 2 Month Notice was served to the Tenant using registered mail on March 24, 2017. The Landlord provided a copy of the registered mail receipt as proof of service.

The reason for ending the tenancy in the Notice states:

The rental unit will be occupied by the Landlord or the Landlord's spouse or a close family member of the Landlord or the Landlord's spouse.

The 2 Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 15 days after it is received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

If a Tenant does not file an Application within 15 days, the Tenant is presumed to accept that the tenancy is ending and must move out of the rental unit by the date set out on page 1 of the Notice. If the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

There is no evidence before me that the Tenant disputed the 2 Month Notice.

The Landlord requests an order of possession dated for the effective date of the 2 Month Notice.

Analysis

Pursuant to section 49 (6) of the Act, if a Tenant does not file an Application within 15 days, the Tenant is presumed to accept that the tenancy is ending and must move out of the rental unit by the date set out on page 1 of the Notice.

Under section 55 (2)(b) of the Act, if the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant received the 2 Month Notice, and did not dispute the Notice within 15 days. Pursuant to section 49 (6) of the Act, I find that the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice. The tenancy is ending.

I find that the Landlord is entitled to an order of possession effective no later than 1:00 pm on May 31, 2017, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The Landlord's request for an order of possession based on the issuance of a 2 Month Notice To End Tenancy For Landlord's Use Of Property dated March, 2017, is granted.

I grant the Landlord an order of possession effective no later than 1:00 pm on May 31, 2017. The Tenant must be served with the 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: May 19, 2017

Residential Tenancy Branch