



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

The new purchasers of the rental unit apply for an order of possession pursuant to a two month Notice to End Tenancy dated and served April 1, 2017.

The listed parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Has the Notice resulted in this tenancy coming to an end?

Background and Evidence

The rental unit is a two bedroom portion of a “four-plex” building. The tenancy started in October 2015. The last rent was \$550.00. The tenant paid a \$275.00 security deposit and a \$275.00 pet damage deposit at the start of his tenancy.

Prior to April 2017 the tenant’s landlord sold the property to the applicants. That purchase closed on May 30, 2017. As provided for in s. 49 of the *Residential Tenancy Act* (the “Act”), the landlord gave the tenant the two month Notice in question, with an effective date of June 1, 2017.

The tenant has not vacated the rental unit. He claims that he has a five year fixed term tenancy with his landlord. He did not provide a copy of that agreement. He says that the landlord accepted the April rent on April 3 and so his tenancy should continue.

Analysis

If the tenant has a five year fixed term tenancy agreement the time for raising that fact would have been on the tenant's application to cancel the Notice. As he has not made that application, s. 49 of the *Act* states that he is conclusively presumed to have accepted the end of his tenancy. The terms regarding his tenancy are no longer relevant in the face of that provision.

The tenant was still responsible to pay rent after the Notice, but for the last month's rent. The fact that the landlord received April rent did not change the effect of the Notice.

Conclusion

This tenancy ended as a result of the Notice. The earliest date for ending, given that the Notice was served April 1, would have been June 30. This tenancy ended June 30, 2017 and the purchasers are entitled to 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: July 21, 2017

Residential Tenancy Branch