



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with a landlord's application for an Order of Possession for cause. The tenant did not appear at the hearing. The landlord's agent testified that he personally served the tenant with the hearing package on July 13, 2017. The landlord's agent had the tenant sign a duplicate copy of the hearing package to acknowledge receipt of the package which the landlord provided as evidence. I was satisfied that the tenant was duly notified of this proceeding in a manner that complies with the Act and I continued to hear from landlord without the tenant present.

The landlord's agent personally served the tenant with a copy of the landlord's evidence package on September 4, 2017; however, the tenant refused to sign to acknowledge receipt of the materials. The landlord's agent took a photograph of the tenant holding the evidence package at the door of the rental unit. The landlord's agent also provided a sworn affidavit as to proof of service of the evidence package. I was satisfied the tenant was served with the landlord's evidence package and I reviewed the relevant materials in making this decision.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for cause?

Background and Evidence

The tenancy started on or about September 1, 2014 and the landlord collected a security deposit of \$375.00. The tenant is required to pay rent of \$650.00 on the first day of every month. The rental unit is a condominium in a multiple unit building.

On May 30, 2017 the landlord's agent posted a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") on the door of the rental unit in the presence of a witness. The landlord provided a signed Proof of Service and a photograph of the 1 Month Notice on the door of the rental unit as proof of service.

The 1 Month Notice is in the approved form and is duly completed by the landlord's agent. The stated effective date is June 30, 2017. The tenant did not file an Application for Dispute Resolution to dispute the 1 Month Notice. The tenant did not vacate the rental unit and the landlord filed this Application for Dispute Resolution on July 7, 2017.

The landlord received partial rent payments from Income Assistance for the months of June 2017 through September 2017 but the full amount of rent was not paid.

The landlord requested an Order of Possession effective as soon as possible as the tenant is an extreme hoarder and smoking in the rental unit and the tenant's actions have put other occupants and the property at significant risk of harm from fire.

Analysis

The landlord has made this application under section 55(2) of the Act. Section 55(2) provides, in part:

(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;

As provided under section 47(5) of the Act, a tenant in receipt of a 1 Month Notice to End Tenancy for Cause has 10 days to file an Application for Dispute Resolution to dispute the Notice. If the tenant does not the tenant is conclusively presumed to have accepted that the tenancy will end and the tenant must vacate the rental unit by the effective date.

I am satisfied by the landlord's evidence that a 1 Month Notice to End Tenancy for Cause was posted to the door of the rental unit on May 30, 2017. Pursuant to section 90 of the Act, the 1 Month Notice is deemed to be received by the tenant three days later which would be June 2, 2017. Accordingly, the effective date automatically changes to read July 31, 2017 under section 53 of the Act.

Since the tenant did not file to dispute the 1 Month Notice served upon him, I find the tenancy came to an end on July 31, 2017 and the landlord is entitled to an Order of Possession under section 55(2) of the Act. I grant the landlord's request for an Order of Possession effective as soon as possible given the circumstances presented to me and I provide the landlord with an Order of Possession effective two (2) after service.

Conclusion

The landlord is provided an Order of Possession effective two (2) days after service.

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: September 20, 2017

Residential Tenancy Branch