



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

On July 18, 2017, the Landlord submitted an Application for Dispute Resolution requesting an order of possession based on 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 testified that he served the Tenant with the Notice of Hearing by registered mail on July 19, 2017. The Landlord provided the registered mail receipt number 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 around November of 2016. Rent in the amount of \$1,500.00 is to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$750.00.

The Landlord testified that he issued the Tenant a 2 Month Notice to end tenancy dated June 22, 2017. The Landlord testified that he posted copies of the Notice on the Tenant's doors and mailbox. The Landlord provided photographs of the posted Notices.

The Landlord testified that 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 effective date shown on the 2 Month Notice is August 31, 2017.

During the hearing, the Landlord provided a copy of the 2 Month Notice that he served on the Tenant, and he testified it is a copy of what was served to the Tenant.

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 assumed to be 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.

The Landlord testified that the Tenant has failed to move out of the rental unit.

As the effective date of the 2 Month Notice has passed, the Landlord seeks an immediate order of possession.

There is no evidence before me that the Tenant disputed 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 has ended.

I find that the Notice complies with the requirements regarding form and content and I find that the Landlord is entitled to an order of possession effective two days 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 February 1, 2017, is granted.

The Tenant received the 2 Month Notice and did not dispute the Notice or move out on the effective date of the Notice.

I grant the Landlord an order of possession effective two (2) days after service on the Tenant. 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: September 29, 2017

Residential Tenancy Branch