



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

The landlord applies for an order of possession pursuant to a two month Notice to End Tenancy for landlord use of property dated May 10, 2017.

Both 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 two month Notice resulted in an end to this tenancy?

Background and Evidence

The rental unit is a one bedroom basement suite in a house. The landlord rents the upper portion of the house to others. The tenancy started in December 2016. The monthly rent is currently \$460.00. The landlord holds a \$225.00 security deposit.

The tenant received the two month Notice in mid May 2017. He has not applied to cancel the Notice. He has obtained extensions from the landlord to continue to stay. He cannot find another place to live. He is disabled.

The landlord does not wish to grant any more extensions.

Analysis

Section 49 of the *Residential Tenancy Act* is clear. If a landlord serves a tenant with a two month Notice and if the tenant fails to make an application to cancel it, then the tenancy ends on the effective date of the Notice. A tenant is “conclusively presumed” to have accepted the end of the tenancy.

In this case the tenancy ended July 31, 2017. The landlord is entitled to an order of possession.

The tenant has paid and the landlord has accepted occupation rent for the month of January. The order of possession will therefore be effective January 31, 2018.

Conclusion

The application is allowed. The landlord will have an order of possession.

The landlord, having been successful, is entitled to recover the \$100.00 fee for this application. I authorize him to reduce the security deposit by \$100.00 in full satisfaction of the fee.

This decision was rendered orally at hearing and 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: January 24, 2018

Residential Tenancy Branch