



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL FF

Introduction:

Both parties attended the hearing and gave sworn testimony. The Two Month Notice to End Tenancy for landlord's use of the property is dated November 29, 2017 to be effective January 31, 2018 and the tenant confirmed it and the Application for Dispute Resolution were served by posting them on the door. The tenant agreed he got the documents. I find the documents were sufficiently served pursuant to section 71(1) (b) of the Act for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain an Order of Possession for landlord's use of the property pursuant to sections 49 and 55;
- b) To recover the filing fee.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenancy is ended pursuant to section 49 and they are entitled to an Order of Possession? Is the landlord entitled to recover the filing fee?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced March 1, 2014, rent is \$855.50 a month and a security deposit of \$425 was paid. The landlord served a Notice to End Tenancy pursuant to section 49 of the Act for the following reasons:

All of the conditions of the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

Included with the evidence is a letter from the new owner stating they intend to occupy the rental unit.

The tenant confirmed he had been granted a free month's rent and said he had moved but needed an extra day to clean the unit. The landlord agreed that an Order of Possession effective February 2, 2018 would be acceptable.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

As discussed with the parties in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have sold the property and the Purchaser has confirmed in writing that they need the unit for their own occupancy. I find the landlord has satisfied the onus as the Purchaser has confirmed in writing that they intend to occupy the property. I find the landlord entitled to an Order of Possession effective February 2, 2018 as agreed with the tenant in the hearing.

Conclusion:

I find the landlord entitled to an Order of Possession effective February 2, 2018 as agreed and to recover his filing fee for this application.

I HEREBY ORDER that the landlord may recover his \$100 filing fee by deducting it from the tenant's security deposit. This will leave \$325 remaining of the security deposit to be dealt with according to section 38 of the Act.

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: January 31, 2018

Residential Tenancy Branch