



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DA WEI INVESTMENTS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, OPR

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to end the tenancy early and obtain an order of possession.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent to each of the tenants by registered mail on March 6, 2018. Canada post tracking numbers were provided as evidence of service.

The Canada post tracking history shows the package was successfully delivered to the tenant B-M on May 15, 2018. I find B-M was served in accordance with the Act.

The Canada post tracking history shows the package was successfully delivered to the tenant R-N on May 16, 2018. I find R-N was served in accordance with the Act.

The Canada post tracking history shows the packages have not been claimed by D-W and J-A; however, refusal or neglect to pick up the packages does not override the deemed service provisions under the Act.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants D-W and J-A have been duly served in accordance with the Act.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord testified that each of the tenants was served with a Two Month Notice to End Tenancy on March 6, 2018, by posting to the door of the rental unit. The landlord stated that the tenants did not dispute the notice to end tenancy. Filed in evidence are copies of the notices to end tenancy.

The landlord stated that since the tenants were served with the notice there has been issues with the fire department and the bylaw department as the property has been come a fire hazard, unsightly and the tenants have done damage to the property.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this matter, I find it not necessary to consider the landlord's application to end the tenancy earlier than the Act allows and obtain an order of possession, pursuant to section 56 of the Act.

The evidence supports that the tenants' were served with a Two Month Notice to End Tenancy for Landlord's Use of Property. I have reviewed the notice to end tenancy and I find it complies with section 52 of the Act.

The tenants did not apply to dispute the Notice and are therefore conclusively presumed under section 49 of the Act to have accepted that the tenancy ended on the corrected effective date of the Notice, which is May 31, 2018. I find the tenancy legally end on May 31, 2018.

Since that day has passed and the tenants have not vacated, I find it appropriate and reasonable to amend the landlord's application for an order of possession pursuant to section 49 and 55 of the Act; rather than section 56 of the Act. I find this is not prejudicial to the tenants as the landlord's application was to obtain an order of possession of the rental unit.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of \$100.00 to recover the filing fee from the tenants for this application. I order that the landlord retain the amount of \$100.00 from the tenants' security deposit in full satisfaction of the claim.

Conclusion

The tenants failed to dispute the Notice. The tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep a portion of the security deposit to recover the cost of the filing fee.

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: June 01, 2018

Residential Tenancy Branch