



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant acknowledged receipt of evidence submitted by the landlord. The tenant did not submit any documentation for this hearing. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the 2 month Notice?
Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlords' agent gave the following testimony. The tenancy began on May 17, 2016 at a monthly rent of \$2000.00 due on the first of the month. At the outset of the tenancy the tenant paid a \$1000.00 security deposit. The landlords' agent testified that the owner is fully intending to move into the home. The agent testified that the tenant was given a two year lease and was advised at the outset that the owner was getting his personal affairs in order and that by the end of the two year term he would be moving in with his family. The agent testified that the tenant was personally served on May 26,

2018 with a 2 Month Notice to End Tenancy for Landlord's Use of Property with an effective date of July 31, 2018. The agent testified that the tenant did not file an application disputing the notice. The agent testified that the tenant has refused to leave. The agent requests an order of possession.

The tenant gave the following testimony. The tenant testified that she is building her own home and that it will be ready near the end of December 2018. The tenant testified that she had a verbal agreement that she could stay in the unit until December 31, 2018.

Analysis

2 Month Notice to End Tenancy

The landlord's 2 Month Notice, entered into written evidence by the landlord, identified the following reason for seeking an end to this tenancy:

- *The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse...*

Section 52 of the Act reads in part as follows:

- 52 *In order to be effective, a notice to end tenancy must be in writing and must...*
- (a) be signed and dated by the landlord or tenant giving the notice,*
 - (b) give the address of the rental unit,*
 - (c) state the effective date of the notice,*
 - (d) except for a notice under section 45(1) or (2) [tenant's notice], state the grounds for ending the tenancy, and*
 - (e) when given by a landlord, be in the approved form.*

As the tenant does not dispute that the owner of the property is moving into the home and that the tenant has not provided sufficient evidence to support her position, I find that the notice is valid and in accordance with section 52 of the Act as noted above; the notice is in full effect and force. The landlord is granted an order of possession pursuant to section 55 of the Act.

The landlord is entitled to the recovery of the \$100.00 filing fee. The landlord is entitled to retain \$100.00 from the security deposit in full satisfaction of the claim.

Conclusion

The 2 Month Notice to End Tenancy for Landlords Use of Property dated May 26, 2018 with an effective date of July 31, 2018 is of full effect and force, the tenancy is terminated.

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 14, 2018

Residential Tenancy Branch