



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUPERMAN PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, OPC

Introduction

This hearing was convened by way of conference call. The Landlord had filed an Application for Dispute Resolution on November 15, 2018 (the "Application"). The Landlord applied for an Order of Possession based on a One Month Notice to End Tenancy for Cause dated October 31, 2018 (the "Notice"). The Landlord also sought reimbursement for the filing fee.

The Agent appeared for the Landlord with C.L. as a witness and to assist given a language barrier. The Tenant appeared at the hearing. I explained the hearing process to the parties and answered their questions in this regard. The Agent and Tenant provided affirmed testimony.

The Landlord had submitted evidence prior to the hearing. The Tenant had not submitted evidence. I addressed service of the hearing package and Landlord's evidence.

The Tenant confirmed he received the hearing package and did not raise any issues in this regard. The Tenant said he did not receive the Landlord's evidence. The Agent testified that the evidence was served on the Tenant by express post and provided Tracking Number 1 as noted on the front page of this decision. I looked this up on the Canada Post website which shows the package was delivered and signed for December 19, 2018.

The Tenant testified that he received two packages in relation to this matter but that neither contained the evidence of the Landlord. The Landlord had not submitted evidence showing what was in the package sent. The Agent said her assistant could provide evidence about this. The Agent advised that her assistant did not know about

the hearing today. I did not allow the Agent to call her assistant as a witness given the assistant was unaware of the hearing and therefore not prepared to act as a witness.

I am not satisfied that the Landlord's evidence was served on the Tenant as the parties gave conflicting testimony about this and the Landlord did not provide evidence showing their evidence was served on the Tenant. I have not considered the Landlord's evidence other than the Notice which the Tenant confirmed he received.

The parties were given an opportunity to present relevant oral evidence, make relevant submissions and ask relevant questions. I have considered the Notice and all oral testimony of the parties. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession based on the Notice?
2. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

The parties agreed there is a written tenancy agreement in this matter. The parties agreed the tenancy agreement is between the Landlord and Tenant in relation to the rental unit. The parties agreed on the following. The tenancy started March 1, 2018 and is a month-to-month tenancy. Rent is \$600.00 per month due on the first day of each month. The Tenant paid a \$300.00 security deposit.

A copy of the Notice was submitted. It is addressed to the Tenant and relates to the rental unit. It is signed and dated by the Agent. It has an effective date of November 30, 2018. The grounds for the Notice are that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health or safety or lawful right of another occupant or the Landlord and put the Landlord's property at significant risk.

I reviewed the contents of the Notice with the Tenant who confirmed the Notice submitted is accurate.

C.L. advised that the Notice was posted on the Tenant's door on October 31, 2018 by the Agent's husband. C.L. said he witnessed this occur. The Tenant testified that he

received both pages of the Notice November 1, 2018 and agreed it was posted on his door.

The Tenant confirmed that he did not file an application to dispute the Notice.

The Tenant testified that he had paid rent until the end of December. The Agent sought an Order of Possession for the end of December.

Analysis

The Landlord was permitted to serve a notice to end tenancy on the Tenant pursuant to section 47(1)(d) of the *Residential Tenancy Act* (the “*Act*”) based on the grounds listed in the Notice.

The Tenant acknowledged receiving the Notice November 1, 2018 posted to his door and therefore I find the Tenant was served with the Notice in accordance with section 88(g) of the *Act*. I accept the undisputed testimony of the Tenant that he received the Notice November 1, 2018.

Upon a review of the Notice, I find it complies with section 52 of the *Act* in form and content as required by section 47(3) of the *Act*.

The Tenant had 10 days from receiving the Notice on November 1, 2018 to dispute it under section 47(4) of the *Act*. The Tenant acknowledged that he did not file an application to dispute the Notice.

Therefore, pursuant to section 47(5) of the *Act*, the Tenant is conclusively presumed to have accepted that the tenancy ends December 31, 2018, the corrected effective date of the Notice. The Tenant is required to vacate the rental unit by December 31, 2018.

I find the Landlord is entitled to an Order of Possession for December 31, 2018 and issue the Landlord an Order of Possession for this date at 1:00 p.m. pursuant to section 55 of the *Act*.

Given the Landlord was successful in this application, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*.

Conclusion

The Landlord is granted an Order of Possession effective at 1:00 p.m. on December 31, 2018. This Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and enforced as an order of that Court.

Given the Landlord was successful in this application, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*. The Landlord is issued a Monetary Order in the amount of \$100.00. This Order must be served on the Tenant and, if the Tenant does not comply with the Order, it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: December 21, 2018

Residential Tenancy Branch