



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession pursuant to a notice to end tenancy for landlord's use of property and for the recovery of the filing fee.

The notice of hearing was served on the tenant on November 07, 2018, by registered mail. The landlord filed a copy of the tracking slip into evidence. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession and for the recovery of the filing fee?

Background and Evidence

The landlord testified that the tenancy started on October 01, 2017, for a fixed term of one year. The landlord stated that he had recorded October 31, 2018 as the end date of the tenancy in error and the one year was supposed to end on September 30, 2018. The monthly rent is \$780.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$390.00.

The landlord stated that on July 31, 2018, he served the tenant with a notice to end tenancy for landlord's use of property by posting the notice on the front door, in the presence of a witness. The effective date of the notice is September 30, 2018. The tenant did not dispute the notice. The notice was a two page notice in the standard format. The landlord has applied for an order of possession effective two days after service on the tenant. .

Analysis

Based on the undisputed sworn testimony of the landlord and in the absence of evidence to the contrary, I accept the landlord's testimony in respect of his claim. The tenant is deemed to have received the notice to end tenancy for landlord's use of property, on August 03, 2018 and did not make application, pursuant to Section 49 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant is deemed to have accepted the end of the tenancy on the date set out in the Notice. Since the effective date of the notice has been determined to be October 31, 2018 and has now passed, pursuant to section 55, I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

Since the landlord has proven his case, he is entitled to the recovery of the filing fee of \$100.00. The landlord may retain \$100.00 from the security deposit.

Conclusion

I grant the landlord an order of possession **effective two days after service** on the tenant. The landlord may retain \$100.00 from the security deposit.

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: December 13, 2018

Residential Tenancy Branch