



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FFL

Introduction

This hearing was scheduled in response to the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for landlord use of property pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The landlord, the landlord's assistant (collectively the "landlord") and tenant GG attended the hearing. Tenant GG (the "tenant") confirmed she had authority to speak on behalf of tenant NG, who was not present. Each party was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant confirmed that she had received the landlord's application. She testified that she did not provide any documentary evidence for the hearing. As the tenant did not raise any issues regarding service of the application, I find that the tenants were duly served with these documents in accordance with sections 88 and 89 of the *Act*.

At the outset of the hearing, the landlord testified that he wished to withdraw his application to recover the filing fee. Therefore no further action is required in regards to this portion of the landlord's claim.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for landlord use of property?

Background and Evidence

As per the testimony of the parties, a written tenancy agreement was entered into on December 6, 2017 on a fixed term until December 2018. Rent in the amount of \$1,800.00 is payable on the first of each month. The tenants did not remit a security deposit at the start of the tenancy. The tenants continue to reside in the rental unit.

The tenant acknowledged personal receipt of the landlord's 2 Month Notice dated November 15, 2018. The 2 Month Notice indicates an effective move-out date of January 31, 2019. The grounds to end the tenancy cited in that 2 Month Notice were;

- the rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse)

Analysis

Section 49 of the *Act* provides that upon receipt of a notice to end tenancy for landlord use of the property in which the landlord or close family member of the landlord intends in good faith to occupy the rental unit, the tenant may within 15 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does not file an application, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must move out of the rental unit.

Based on the parties' testimony and the notice before me, I find that the tenants were served with an effective notice. As the tenants did not file an application to dispute the notice the tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must move out of the unit. Accordingly, I find that the landlord is entitled to an order of possession effective January 31, 2019 at 1:00 p.m., pursuant to section 55 of the *Act*.

Conclusion

I grant an order of possession to the landlord effective **January 31, 2019 at 1:00 p.m.**

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 04, 2019

Residential Tenancy Branch