



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession based on a Two Month Notice to End Tenancy for Landlord's Use of Property issued on January 19, 2019 (the "Notice") and to recover the filing fee from the tenants.

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 the 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 by registered mail sent on February 16, 2019, which were successfully delivered on February 20, 2019. I find that the tenants have been duly served in accordance with the Act.

Preliminary matter

Although the landlord's application stated that they seek an order of possession based on written notice to end the tenancy from the tenants. That appears to be an obvious error as the details show it was based on a notice to end tenancy from the landlord. Therefore, I have amended the application for an order of possession based on the Notice.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of the landlord, I find that the tenants were served with a Two Month Notice for Landlord's Use of Property (the "Notice") in person, on January 19, 2019, by personal service. Filed in evidence is a copy of the Notice.

The Notice explains the tenants had ten 15 days to dispute the Notice. The Notice further explains if the Notice is not disputed within the 15 days that the tenants are presumed to accept the Notice and must move out of the rental unit by the date specified in the Notice.

The landlord indicated that they would be travelling with a U-Haul and wants to ensure that the tenants have vacated the property when they arrive.

Analysis

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

The tenants did not apply to dispute the Notice and therefore conclusively presumed under section 96 (9) of the Act to have accepted that the tenancy ended on the effective date of the Notice, which is March 31, 2019.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, **effective 1:00PM on March 31, 2019**. A copy of this Order must be served on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Although I have found the landlord is entitled to an order of possession on the above noted date, I find that the landlord is not entitled to recover the filing since there is no evidence that the tenants have breached the Act, as the effective date of the Notice has not arrived.

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.

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: March 18, 2019

Residential Tenancy Branch