



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FFL

Introduction

This hearing dealt with the landlords' Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act"), seeking an order of possession based on a 2 Month Notice to End Tenancy for Landlord's Use of Property dated January 21, 2019 ("2 Month Notice"), and to recover the cost of the filing fee.

Both parties were present at the teleconference hearing, although the tenant did not call into the hearing until just over eight minutes into the hearing. I introduced myself and the parties and both parties were affirmed. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed testimony and to make submissions to me. I have considered all of the relevant evidence and testimony provided.

Preliminary and Procedural Matter

The landlord confirmed their email address at the outset of the hearing. The tenant did not provide an email address. This decision will be emailed to the landlord and will be sent by regular mail to the tenant.

Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to recover the cost of the filing fee under the *Act*?

Background and Evidence

The parties agreed that the tenancy began over six years ago. The parties agreed that current monthly rent was \$1,165.00 per month. The landlord testified that he served the 2 Month Notice on January 18, 2019. The tenant testified that the 2 Month Notice was not signed or dated by the landlord. The 2 Month Notice submitted in evidence by the landlord is dated January 21, 2019, and has a signature of the landlord. The landlord was asked how the 2 Month Notice could be dated January 21, 2019, if it was served on January 18, 2019. The landlord testified that he quickly served the tenant on January 18, 2019, and after the fact signed and dated his copy of the 2 Month Notice as he has not signed and dated the 2 Month Notice served on the tenant. The effective vacancy date listed on the 2 Month Notice was March 31, 2019.

The parties confirmed that the tenant continues to occupy the rental unit as of the date of the hearing, May 16, 2019.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

2 Month Notice - Section 52 of the *Act* applies and states:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a 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.

[Emphasis added]

Given the above, I find that at the time the 2 Month Notice was issued, the landlord failed to sign and date the 2 Month Notice and that submitting an altered document after the fact does not correct that error. The 2 Month Notice dated on January 21, 2019, which was two days after the 2 Month Notice was served on the tenant, is of no force or effect.

As the landlord's application was not successful, I do not grant the filing fee.

The tenancy continues until ended in accordance with the *Act*.

Conclusion

The application of the landlord has been dismissed. The 2 Month Notice dated by the landlord on January 21, 2019 is not valid and is therefore, of no force or effect.

The filing fee is not granted.

The tenancy shall continue until ended in accordance with the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 16, 2019

Residential Tenancy Branch