



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNR, MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act, (the “Act”), for an order of possession, for a monetary order for unpaid rent, for money owed or loss and to recover the cost of filing the application from the tenant.

The landlord attended the hearing. As the tenant 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 served in person on June 20, 2019.

I find that the tenant has been duly served in accordance with the Act.

The landlord appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Preliminary and Procedural matters

At the outset of the hearing the landlord indicated the unpaid rent has been paid and they are withdrawing this portion of their claim.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary compensation for money owed or loss?

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 tenant was served with a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice"), issued on May 12, 2019, by personal service.

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

The landlord testified that they do not believe the tenant will leave on the effective date of the Notice and seeks an Order of possession.

The landlord testified because they do not believe the tenant will vacate on July 31, 2019, that they will have to pay for living accommodation elsewhere. The landlord stated they should be entitled to recover the cost.

Analysis

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

I accept the evidence of the landlord that the Notice was completed in accordance with Part 4 of the Act - How to End a Tenancy, pursuant to section 49 of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 52 the Act.

Further, I accept the evidence of the landlord that the tenant was served with the Notice in compliance with the service provisions under section 88 of the Act.

I am satisfied based on the landlord's evidence that the landlord has met the statutory requirements under the Act to end a tenancy.

The tenant did not apply to dispute the Notice and therefore conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Therefore, I find the tenancy legally ends on July 31, 2019.

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

In this matter the landlord has applied for monetary loss, as they believe the tenant will not vacate the rental unit on July 31, 2019. I find this portion of the landlord's claim premature as the tenant has not violated the Notice, and they have until July 31, 2019, vacate the rental unit. Therefore, I dismiss this portion of the landlord's claim with leave to reapply should the tenant failed to comply with the order of possession.

I am satisfied that the landlord's claim had merit. I find that the landlord has established a total monetary claim of \$100.00 to recover the filing fee from the tenants for this application. I order that the landlord retain the amount of \$100.00 from the tenant's security deposit in full satisfaction of the claim.

Conclusion

The tenant failed to dispute the Notice. The tenant is 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, and may keep a portion of the security deposit in full satisfaction of the claim.

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: July 30, 2019

Residential Tenancy Branch