



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

Introduction

On July 11, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking an order of possession for the rental unit based on issuance of a One Month Notice To End Tenancy for Cause.

The matter was set for a conference call hearing. The Landlord’s agent (“the Landlord”) attended the conference call hearing; however, the Tenant did not. The Landlord provided affirmed testimony that the Tenant was served with the Notice of Dispute Resolution Proceeding documents in person on July 20, 2019. I find that the Tenant was served with notice of the hearing in accordance with sections 89 and 90 of the Act.

The Landlord was provided with an opportunity to ask questions about the hearing process. The Landlord was provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to an order of possession for cause?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that the tenancy began on in May 2018, on a month to month basis. Rent in the amount of \$800.00 is to be paid to the Landlord by the first day of each month. The Tenant paid a security deposit of \$400.00 to the Landlord.

The Landlord testified that he issued the Tenant a One Month Notice to End Tenancy for Cause ("the One Month Notice") by posting the notice on the Tenant's door on June 3, 2019. The Landlord provided a proof of service document that indicates the One Month Notice was served to the Tenant at 6:16 PM on June 3, 2019 which was witnessed by Ms. V.S.

The reasons selected by the Landlord within the One Month Notice are as follows:

Tenant is repeatedly late paying rent

Tenant or a person permitted on the property by the Tenant has:

- *Significantly interfered with or unreasonably disturbed another occupant or the Landlord*
- *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*

The One Month Notice provides that the Tenant must move out of the rental unit by July 3, 2019.

The One Month Notice provides information on the rights of a Tenant. At the top of the form the Notice provides: "You may be EVICTED if you do not respond to this Notice." The Notice also informs the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice informs the Tenant that if an application to dispute the Notice is not filed within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit on the effective date set out on page one of the Notice.

The Landlord testified that the Tenant did not dispute the One Month notice and has not moved out of the rental unit.

The Landlord seeks an order of possession for the rental unit, based on an undisputed One Month Notice to End Tenancy for Cause dated June 3, 2019.

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant received a One Month Notice to End Tenancy for Cause dated June 3, 2019.

The One Month Notice provided the Tenant with his rights of dispute. If the Tenant believed that the Landlord did not have sufficient proof to support the reasons for ending the tenancy, the Tenant was required to dispute the Notice within 10 Days. The Tenant's opportunity to dispute the Notice has expired.

I find that the Tenant did not apply to dispute the One Month Notice, and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Section 55 of the Act provides that a Landlord may request an order of possession of a rental unit when a notice to end tenancy is given by a Landlord and the Tenant has not disputed the Notice and the time for making that application has expired.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective two (2) days after service on the Tenant. 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.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution. I authorize the Landlord to keep \$100.00 from the security deposit of \$400.00 in full satisfaction of the filing fee.

Conclusion

The Tenant received a One Month Notice and did not file to dispute the Notice and did not move out of the rental unit. The Tenant is presumed under the legislation to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession effective two (2) days, after service on the Tenant.

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: September 03, 2019

Residential Tenancy Branch