



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ARPEG HOLDINGS LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, OPC

Introduction

This hearing was convened by way of conference call. The Landlord filed an Application for Dispute Resolution on August 07, 2019 (the "Application"). The Landlord applied for an Order of Possession based on a One Month Notice to End Tenancy for Cause dated June 21, 2019 (the "Notice"). The Landlord also sought reimbursement for the filing fee.

The Agent for the Landlord appeared at the hearing. The Tenant did not appear at the hearing which lasted 13 minutes. I explained the hearing process to the Agent who did not have questions when asked. The Agent provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not. I addressed service of the hearing package and Landlord's evidence.

The Agent testified that the Building Manager served the hearing package and evidence on the Tenant in person August 15, 2019. The Agent testified that the Building Manager sent him an email confirming service.

Based on the undisputed testimony of the Agent, I accept that the Tenant was served with the hearing package and evidence in accordance with sections 59(3), 88(a) and 89(2)(a) of the *Residential Tenancy Act* (the "Act") and rule 3.1 of the Rules of Procedure.

As I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. The Agent was given an opportunity to present relevant oral evidence, make relevant submissions and ask relevant questions. I have considered all documentary evidence

and oral testimony of the Agent. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession based on the Notice?
2. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

The Landlord submitted a written tenancy agreement. It is between the Building Manager and Tenant in relation to the rental unit. The Agent testified that the Landlord owns the rental unit. The tenancy started May 01, 2014 and is a month-to-month tenancy. The Agent testified that rent is \$460.00 per month. Rent is due on the first day of each month. The Tenant paid a \$220.00 security deposit. The agreement is signed by the Building Manager and Tenant.

The Agent confirmed the Landlord is seeking to keep \$100.00 of the security deposit as reimbursement for the filing fee.

The Landlord submitted a copy of the Notice. It is addressed to the Tenant and relates to the rental unit. It is signed and dated by the Agent. It has an effective date of July 31, 2019. The grounds for the Notice are that:

1. 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 and put the landlord's property at significant risk.
2. Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord submitted a Proof of Service in relation to the Notice. It states that the Notice was served by the Building Manager in person to the Tenant June 21, 2019. It is signed by a witness. The Agent confirmed this information.

The Agent was not aware of the Tenant ever disputing the Notice.

The Agent testified as follows. The Landlord has been going through the rental unit building to deal with a pest issue. There have been inspections every two months to ensure there are no bed bugs. The Tenant has not complied with the notices of entry. The Landlord cannot inspect the rental unit or treat it as required. The Landlord suspects there are bed bugs in the rental unit but cannot get in to confirm this. The Tenant has been uncooperative. If there are bed bugs in the rental unit, this poses sanitary risks to other units.

The Agent sought an Order of Possession effective October 31, 2019.

The Landlord submitted evidence in relation to the grounds for the Notice.

Analysis

The Landlord was permitted to serve a notice to end tenancy on the Tenant pursuant to section 47 of the *Act* based on the grounds listed in the Notice.

Based on the undisputed testimony of the Agent and Proof of Service submitted, I find the Tenant was served with the Notice in accordance with section 88(a) of the *Act*. Given the Notice was served in person, I find the Tenant received it June 21, 2019.

Upon a review of the Notice, I find it complies with section 52 of the *Act* in form and content as required by section 47(3) of the *Act*.

The Tenant had 10 days from receiving the Notice on June 21, 2019 to dispute it under section 47(4) of the *Act*. I accept that the Agent is not aware of the Tenant disputing the Notice. I have no evidence before me that the Tenant did. I find the Tenant did not dispute the Notice.

Therefore, pursuant to section 47(5) of the *Act*, the Tenant is conclusively presumed to have accepted that the tenancy ended July 31, 2019, the effective date of the Notice. The Tenant was required to vacate the rental unit by July 31, 2019.

I do not find it necessary to determine whether the Landlord in fact had grounds to issue the Notice as the Tenant did not dispute it and therefore the conclusive presumption set out in section 47(5) of the *Act* applies.

I find the Landlord is entitled to an Order of Possession and issue the Landlord an Order of Possession effective at 1:00 p.m. on October 31, 2019 pursuant to section 55 of the *Act*.

As the Landlord was successful in this application, I award the Landlord \$100.00 as reimbursement for the filing fee pursuant to section 72(1) of the *Act*. Pursuant to section 72(2) of the *Act*, the Landlord can keep \$100.00 of the security deposit as reimbursement for the filing fee.

Conclusion

The Landlord is issued an Order of Possession effective at 1:00 p.m. on October 31, 2019. This Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and enforced as an order of that Court.

As the Landlord was successful in this application, I award the Landlord \$100.00 as reimbursement for the filing fee. The Landlord can keep \$100.00 of the security deposit as reimbursement for the filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: October 08, 2019

Residential Tenancy Branch