



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LOOKOUT HOUSING & HEALTH
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

The landlord applies for an order of possession pursuant to a one month Notice to End Tenancy dated and served May 31, 2019.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Has the Notice resulted in the ending of this tenancy entitling the landlord to an order of possession.

Background and Evidence

The rental unit is a single room occupancy accommodation. The tenancy started in April 2017. The rent is \$375.00 a month and the landlord holds a \$187.50 security deposit.

There is no dispute but that the tenant was served with a one month Notice to End Tenancy for cause in the approved form on May 31, 2019.

She testifies that she did not apply to challenge the Notice because she was uncertain about her right to do so. She says she was under the impression that if the activity stopped she could stay. She did not indicate that this belief arose from any representative by an agent of landlord society.

The tenant notes that the landlord has accepted rent for months since the Notice was given.

Mr. L. for the landlord notes that any doubt the tenant may have had about the landlord's intention to evict her should have been settled by service on her of the landlord's application for an order of possession on August 23.

Analysis

Section 47(5) of the *Residential Tenancy Act* (the "Act") provides:

If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

The use of the term "conclusively presumed " in ss. (a) leaves no room for a tenant to show a contrary intention to not accept the Notice as ending the tenancy. As well, the Notice approved under the *Act* clearly sets out a tenant's right to challenge the grounds alleged in the Notice and the result should a tenant fail to challenge the Notice.

Regarding rent paid since the Notice, I am satisfied that money has been received by the landlord as occupation rent pending this hearing. The landlord has not intended to recommence a tenancy with this tenant.

Conclusion

The landlord's application is allowed. The Notice caused this tenancy to end on June 30, 2019 and the landlord is entitled to an order of possession. As the tenant has paid occupation rent for the month of October, the order will be effective October 31.

I award the landlord recovery of the \$100.00 filing fee and I authorize the landlord to recover it from the security deposit it holds.

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: October 17, 2019

Residential Tenancy Branch