



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAXIMILLIAN DEVELOPMENTS
CORP. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

On October 2, 2019, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a One Month Notice to End Tenancy for Cause (the "Notice") pursuant to Section 47 of the *Residential Tenancy Act* (the "*Act*") and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing with M.G. The Tenant did not make an appearance during the 32-minute hearing. All in attendance provided a solemn affirmation.

The Landlord advised that he served the Tenant the Notice of Hearing and evidence package by registered mail on October 3, 2019 (the registered mail tracking history is on the first page of this decision). He also stated that a copy of this package was hand delivered to the Tenant on or around October 5, 2019. The tracking history indicated that the Tenant signed for the package. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served the Notice of Hearing and evidence package.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to recover the filing fee?

Background, Evidence, and Analysis

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord stated that he did not complete a written tenancy agreement, despite being a requirement of the *Act*. He advised that the tenancy started on February 1, 2018. Rent was currently established at \$950.00 per month, due on the first of each month. A security deposit of “more than likely a half month’s rent” was also paid.

The Landlord advised that he is not sure when he served the Notice to the Tenant nor is he sure what was on the Notice. After much questioning, he put his wife on the phone as “she was responsible for paperwork.” She advised that the Tenant was simply given a typed letter to vacate the rental unit and that “this is how they have always done it.” She was advised that she was required by the *Act* to use an approved form to end the tenancy and it was her belief that this was a recent change to the *Act*.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 52 of the *Act* requires that any notice to end tenancy issued by a Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

When reviewing the Landlord’s evidence, with respect to the notice to end tenancy served to the Tenant, I have reviewed this notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. The notice that the Landlord wanted to rely on to end the Tenant’s tenancy was clearly not in the approved form, pursuant to Section 52(e) of the *Act*.

As such, I am not satisfied of the validity of the notice as it does not comply with Section 52 of the *Act*. Therefore, I find that the notice to end the Tenant’s tenancy dated August 19, 2019 is of no force and effect.

As the Landlord was not successful in his claim, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

Based on the above, I hereby order that the notice to end tenancy that the Landlord dated August 19, 2019 is cancelled and of no force or effect, as it is not a valid notice pursuant to the *Act*. This tenancy continues until ended in accordance with the *Act*.

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: November 4, 2019

Residential Tenancy Branch