



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

OPC

Dispute Codes

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution made on March 12, 2020 (the "Application"). The Landlord applies for an order of possession pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord was represented at the hearing by D.G., an agent. The Tenant attended the hearing and was accompanied by V.S. and J.V., who did not provide testimony. D.G. and the Tenant provided affirmed testimony.

On behalf of the Landlord, D.G. testified that the Notice of Dispute Resolution Proceeding package was served on the Tenant by registered mail on April 1, 2020. A Canada Post registered mail receipt was submitted into evidence, and the Tenant acknowledged receipt. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find these documents are deemed to be received by the Tenant on April 6, 2020. A further documentary evidence package was served on the Tenant on May 8, 2020 but the evidence was not considered. The Tenant did not submit documentary evidence in response to the Application.

The parties were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. 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?

Background and Evidence

The parties confirmed the tenancy began on December 1, 2013. The parties agreed that market rent for the unit is \$1,146.00 per month but that the subsidized rate paid by the Tenant is \$375.00 per month. The Tenant paid a security deposit in the amount of \$300.00, which the Landlord holds.

The Landlord sought an order of possession based on an undisputed One Month Notice to End Tenancy for Cause, dated October 1, 2019 (the "One Month Notice"). A copy of the One Month Notice was submitted into evidence. The Landlord testified the One Month Notice was served on the Tenant in person on October 1, 2019. When asked why no action had been taken to enforce the undisputed One Month Notice before the Application was made, D.G. testified the Landlord did not want the Tenant not to be homeless. D.G. also confirmed the Landlord continued to accept rent for use and occupancy only.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a landlord to take steps to end a tenancy by issuing a notice to end tenancy in the approved form. When a tenant fails to dispute a notice to end tenancy within the specified timeframe, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice to end tenancy and must vacate the rental unit.

In this case, I find the One Month Notice was served on and received by the Tenant on October 1, 2019. I find the Tenant did not dispute the One Month Notice. However, it appears no further action was taken to pursue an order of possession until the Landlord's Application was made on March 12, 2020, more than five months later. The Tenant continued to pay rent. I find that a landlord who wishes to rely on an undisputed notice to end tenancy must take steps to obtain an order of possession within a reasonable period of time or risk reinstating the tenancy. In this case, I find that the tenancy was reinstated. As a result, the One Month Notice is cancelled. The tenancy will continue until otherwise ended in accordance with the *Act*.

Conclusion

The Landlord's Application is dismissed. I order that the One Month Notice is cancelled and is of no force or effect. The tenancy will continue until otherwise 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: May 11, 2020