



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, OPN, FFL

Introduction

This hearing was convened by way of conference call. The Landlords filed an Application for Dispute Resolution on May 07, 2020 (the “Application”). The Landlords applied as follows:

- For an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 15, 2020 (the “10 Day Notice”);
- For an Order of Possession based on a One Month Notice to End Tenancy for Cause dated February 15, 2020 (the “One Month Notice”);
- For an Order of Possession based on the Tenant’s notice to end tenancy; and
- For reimbursement for the filing fee.

The Landlords filed an amendment adding Landlord S.C. to the Application.

The Landlords appeared at the hearing. The Tenant did not appear at the hearing which lasted 31 minutes. I explained the hearing process to the Landlords who did not have questions when asked. The Landlords provided affirmed testimony.

The Landlords submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlords’ evidence.

Landlord M.B. testified that the hearing package and evidence were sent by registered mail to the rental unit on May 08, 2020. The Landlords submitted a receipt for this with Tracking Number 1 on it. I looked Tracking Number 1 up on the Canada Post website which shows the package was delivered May 11, 2020.

Based on the undisputed testimony of Landlord M.B., receipt and Canada Post website information, I am satisfied the Tenant was served with the hearing package and

evidence in accordance with sections 88(c) and 89(2)(b) of the *Residential Tenancy Act* (the “Act”). Based on the Canada Post website information, I am satisfied the Tenant received the hearing package and evidence May 11, 2020. I also find the Landlords complied with rule 3.1 of the Rules of Procedure (the “Rules”) in relation to the timing of service.

Landlord M.B. testified that a copy of the amendment was not served on the Tenant. I do not find this relevant given the amendment only added Landlord S.C. to the Application and did not change the claims in the Application.

As I was satisfied of service of the hearing package and evidence, I proceeded with the hearing in the absence of the Tenant. The Landlords were given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered all documentary evidence and oral testimony of the Landlords. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Are the Landlords entitled to an Order of Possession based on the 10 Day Notice?
2. Are the Landlords entitled to an Order of Possession based on the One Month Notice?
3. Are the Landlords entitled to an Order of Possession based on the Tenant’s notice to end tenancy?
4. Are the Landlords entitled to reimbursement for the filing fee?

Background and Evidence

A written tenancy agreement was submitted as evidence. The tenancy started June 16, 2013 and is a month-to-month tenancy. Rent was \$575.00 per month due on the first day of each month. The Tenant paid a \$275.00 security deposit. Landlord M.B. and the Tenant signed the agreement.

Landlord M.B. testified that rent is currently \$650.00 per month.

Landlord M.B. testified that the Tenant gave the Landlords notice ending the tenancy on February 16, 2020. Landlord M.B. testified that the Tenant gave him the notice in person and he indicated to the Tenant that the Landlords accepted the notice.

A copy of the Tenant's notice to end tenancy was submitted. It is written. It includes the address of the rental unit. It states that the Tenant will be moving out March 31, 2020 and is ending the tenancy for personal reasons. It is signed and dated February 15, 2020 by the Tenant.

The Landlords sought an Order of Possession effective June 30, 2020 given the current pandemic, the *Ministerial Order M089* issued March 30, 2020 and the fact that the Tenant has paid rent for June.

I heard the Landlords on the 10 Day Notice and One Month Notice; however, I do not find it necessary to outline their testimony here as my decision is based on the Tenant's notice ending the tenancy as explained below.

Analysis

Section 44 of the *Act* outlines how a tenancy ends. Section 44(1)(a)(i) of the *Act* states that a tenancy ends when a tenant gives notice in accordance with section 45 of the *Act*.

Section 45 of the *Act* states:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement...

(4) A notice to end a tenancy given under this section must comply with section 52...

Section 52 of the *Act* states:

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice...

Section 55 of the *Act* states:

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

- (a) a notice to end the tenancy has been given by the tenant;

I am satisfied based on the undisputed testimony of Landlord M.B. that the Tenant gave the Landlords the notice ending the tenancy in evidence on February 16, 2020.

I am satisfied based on the written tenancy agreement that this is a month-to-month tenancy and rent is due on the first day of each month.

The Tenant was entitled to end the tenancy pursuant to section 45(1) of the *Act*. I am satisfied based on the notice ending the tenancy in evidence that the Tenant gave notice February 16, 2020 ending the tenancy March 31, 2020. The Tenant's notice complies with section 45 of the *Act* in relation to timing.

I am satisfied based on the notice ending the tenancy in evidence that the Tenant's notice complies with section 52 of the *Act* in form and content as it includes all of the information set out in section 52 of the *Act*.

I find the Tenant gave a valid notice ending the tenancy. I accept the undisputed testimony of Landlord M.B. that the Landlords accepted the Tenant's notice and communicated this to the Tenant. I find the Tenant ended the tenancy as of March 31, 2020 pursuant to section 44(1)(a)(i) of the *Act*.

I find the Landlords are entitled to an Order of Possession based on the Tenant's notice pursuant to section 55(2)(a) of the *Act*. I issue the Landlords an Order of Possession effective at 1:00 p.m. on June 30, 2020 pursuant to section 55(2)(a) of the *Act*.

I do not find it necessary to decide whether the Landlords are entitled to an Order of Possession based on the 10 Day Notice or One Month Notice given the Landlords are being issued an Order of Possession based on the Tenant's notice.

Given the Landlords were successful in the Application, I award the Landlords \$100.00 as reimbursement for the filing fee pursuant to section 72(1) of the *Act*. I issue the Landlords a Monetary Order for \$100.00 pursuant to section 67 of the *Act*.

Conclusion

The Landlords are issued an Order of Possession effective at 1:00 p.m. on June 30, 2020. 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
SUBJECT TO THE MINISTERIAL ORDER M089 ISSUED MARCH 30, 2020 AND REFERRED TO ON THE LAST PAGE OF THIS DECISION.

The Landlords are issued a Monetary Order for \$100.00 for reimbursement for the filing fee. This Order must be served on the Tenant. If the Tenant fails to comply with this Order, it may be filed in the Small Claims division of the Provincial Court and enforced as an order of that court.

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: June 10, 2020

Residential Tenancy Branch