



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, OPN, FFL

Introduction

This hearing dealt with a landlord's application for an Order of Possession based on a tenant's notice to end tenancy. Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

The tenant confirmed receipt of the landlord's proceeding package and understanding of the landlords' application.

It should be noted that on March 30, 2020 an Order was issued by the Minister of Public Safety and Solicitor General under the *Emergency Program Act* suspending a landlord's right to issue a Notice to End Tenancy due to the state of emergency as a result of the Covid-19 pandemic ("Minister's Order"). However, the Minister's Order does not apply to notices to end tenancy given by a landlord before March 30, 2020 or notices to end tenancy given by a tenant. This case deals with a notice to end tenancy given by a tenant. As such, the landlords remain at liberty to seek an Order of Possession pursuant to the tenant's notice. Enforcement of the Order of Possession issued with this decision may be impacted by the Minister's Order, depending on whether the Minister's Order is cancelled or amended when the Order of Possession becomes effective.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession?

Background and Evidence

The tenancy started on February 1, 2018 for a fixed term of one year and then the tenancy continued on a month to month basis. The rent was initially set at \$1000.00 payable on the first day of every month and after one year the rent was increased to \$1025.00.

On March 19, 2020 the tenant gave a written notice to end tenancy to the landlord in person. The tenant's notice has a stated effective date of April 30, 2020.

The tenant was occupying the rental unit with her grown son. The tenant moved out on April 11, 2020 and the tenant's son was to vacate the rental unit by April 30, 2020; however, the tenant's son has not vacated the rental unit.

The landlords testified they have not collected any rent from the tenant or the tenant's son after April 2020 and they did not enter into a new tenancy agreement with the tenant's son.

The landlords request an Order of Possession effective on June 30, 2020.

The tenant did not object to the landlord's request and stated she has been trying to get her son to move out but he will not speak with her.

Analysis

Section 55(2)(a) of the Act provides that a landlord may seek an Order of Possession where a notice to end the tenancy has been given by the tenant.

It is undisputed that the tenant gave the landlord a notice to end tenancy to be effective on April 30, 2020. As such, the tenant and all other occupants of the rental unit were required to vacate the rental unit by April 30, 2020. It is undisputed that the tenant has failed to return vacant possession of the rental unit to the landlord as an occupant she permitted in the rental unit has not yet moved out.

Therefore, I find the landlords require and are entitled to an Order of Possession. As requested, I provide the landlords with an Order of Possession effective on June 30, 2020 to serve and enforce.

I also award the landlords recovery of the \$100.00 filing fee they paid for this Application for Dispute Resolution and I provide the landlords with a Monetary Order for this amount to serve and enforce. Alternatively, the landlords are authorized to deduct \$100.00 from the tenant's security deposit to recover the filing fee.

Conclusion

The landlords are provided an Order of Possession effective on June 30 ,2020 to serve and enforce.

The landlords are provided a Monetary Order in the amount of \$100.00 to recover the filing fee from the tenant. Alternatively, the landlords are authorized to deduct \$100.00 from the tenant's security deposit to recover the filing fee from the tenant.

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: June 12, 2020

Residential Tenancy Branch