



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession for cause and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, gave affirmed testimony, and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call. The landlord testified that the tenant was personally served with the landlord's application and notice of this hearing (the Hearing Package) on July 7, 2020. I accept that testimony, and I find that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy for Cause dated February 29, 2020 was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord testified that this month-to-month tenancy began on October 1, 2019 and the tenant still resides in the rental unit. Rent in the amount of \$850.00 is payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$425.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a basement suite and the landlord resides in the upper level of the home.

The landlord has provided a copy of the tenancy agreement as evidence for this hearing, however it is missing information, such as the commencement date of the tenancy and the date it was signed.

The landlord also testified that he personally served the tenant with a One Month Notice to End Tenancy for Cause or End of Employment on February 29, 2020, and a copy has been provided for this hearing. It is dated February 29, 2020 but contains no effective date of vacancy, and no reason for issuing it. The landlord testified that he has not been served with an Application for Dispute Resolution disputing the Notice.

Analysis

The *Residential Tenancy Act* specifies that a tenant has 10 days to dispute a One Month Notice to End Tenancy for Cause or End of Employment (the Notice), by filing and serving the landlord with an Application for Dispute Resolution. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy and must move out by the date specified in the Notice. The Notice also sets out the requirement of the tenant to make such an application, and states that errors in the Notice do not make it invalid. In this case, the landlord testified that he has not been served with an Application for Dispute Resolution by the tenant, and I have no such application before me.

In the circumstances, I am satisfied that the tenant had until March 10, 2020 to dispute the Notice, and by not doing so, is conclusively presumed to have accepted the end of the tenancy, and the landlord is entitled to an Order of Possession.

The law also stipulates that an incorrect effective date contained in the Notice is changed to the nearest date that complies with the law, which I find is March 31, 2020. Since that date has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee. I order the landlord to keep \$100.00 of the \$425.00 security deposit held in trust as full recovery.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further order the landlord to keep \$100.00 of the security deposit as recovery of the filing fee.

This order is final and binding and may be enforced.

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: August 07, 2020

Residential Tenancy Branch