



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 concerning an application made by the landlords seeking an Order of Possession for cause and to recover the filing fee from the tenant for the cost of the application.

Both landlords attended the hearing and one gave affirmed testimony. 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 served with the Application for Dispute Resolution and notice of this hearing (the Hearing Package) on July 29, 2020 by registered mail. The landlords have provided a Canada Post cash register receipt bearing that date and a tracking number, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issues to be Decided

Have the landlords established that the One Month Notice to End Tenancy for Cause or End of Employment was issued in accordance with the *Residential Tenancy Act* and Ministerial Orders?

Background and Evidence

The landlord testified that this tenancy began on October 1, 2019, and the tenant abandoned the rental unit on or about August 14, 2020. Rent in the amount of \$2,200.00 per month was payable on the 1st day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$1,100.00 which is still held in trust by the landlords, and no pet damage deposit was

collected. The rental unit is a single family dwelling and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlords were alerted by a neighbour that the tenant had vacated. The landlords gave notice to enter the rental unit, and when they did, they found the home empty with the exception of garbage and what appeared to be unwanted personal items.

On July 8, 2020 the landlords served the tenant with a One Month Notice to End Tenancy for Cause or End of Employment by posting it to the door of the rental unit. A copy has been provided for this hearing and it is dated July 8, 2020 and contains an effective date of vacancy of August 31, 2020. The reason for issuing it states: "Tenant is repeatedly late paying rent."

The landlords have also provided rental receipts showing that all rental payments made by the tenant were paid late, prior to and since the COVID-19 pandemic.

The tenant has not provided a forwarding address to the landlords, and has not served the landlords with an Application for Dispute Resolution disputing the Notice, and has not served the landlords with an Application for Dispute Resolution claiming the security deposit.

The landlords seek an Order of Possession to ensure that the tenant cannot re-enter the rental property.

Analysis

The *Residential Tenancy Act* specifies that where a tenant is served with a One Month Notice to End Tenancy for Cause or End of Employment (the Notice), the tenant has 10 days to dispute it 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.

In this case, the landlord testified that the tenant has not served the landlords with an application disputing the Notice, and I have no such application before me. Further, the Ministerial Order of the director, Residential Tenancy Branch specifies that landlords could not issue any kind of notice to end a tenancy between March 30 and June 23, but effective June 24, 2020 landlords can issue any kind of notice to end a tenancy with some restrictions.

I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. Since the Notice was issued after June 24, 2020, and

the landlords seek the Order of Possession for repeated late rent prior to March 30, 2020, I find that the landlords have complied with the *Act* and the Ministerial Order, and the landlords are entitled to an Order of Possession effective at 1:00 p.m. August 31, 2020, and I so order.

Since the landlords have been successful with the application, the landlords are also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlords as against the tenant in that amount.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlords effective at 1:00 p.m. on August 31, 2020.

I further grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00.

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 31, 2020

Residential Tenancy Branch