



Dispute Resolution Services

Page: 1

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 was represented at the hearing by an agent who 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's agent testified that the tenant was served with the Application for Dispute Resolution, notice of this hearing and most of the evidentiary material (the Hearing Package) on August 17, 2020 by posting the documents to the door of the rental unit and by registered mail. The balance of the evidence was provided to the tenant by posting it to the door of the rental unit on September 15, 2020.

The Proof of Service document provided by the landlord indicates that on August 17, 2020 a witness observed an agent of the landlord serve Proof of Service for Dispute Resolution Proceedings by posting it to the door of the rental unit, not the Dispute Resolution Package. The landlord's agent was permitted to provide proof of service of the Hearing Package by registered mail, after the hearing had concluded. I now have a Registered Domestic Customer Receipt addressed to the tenant as well as a Canada Post cash register receipt dated August 17, 2020 with a matching tracking number, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence of the landlord has been reviewed and is considered in this Decision.

Issues to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession based on a One Month Notice to End Tenancy For Cause or End of Employment?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on June 1, 2016. Rent is subsidized and the tenant's portion is \$579.00 payable on the 1st day of each month and there are no rental arrears. No security deposit or pet damage deposit was collected by the landlord. The rental unit is a townhouse, and a copy of the tenancy agreement has been provided as evidence for this hearing. The landlord's agent believes the tenant vacated the rental unit, but allowed unauthorized occupants to remain, who are technically squatters.

On June 26, 2020 the landlord's agent posted a One Month Notice to End Tenancy For Cause or End of Employment to the door of the rental unit, and a copy has been provided for this hearing. It is dated June 26, 2020 and contains an effective date of vacancy of July 31, 2020. The reason for issuing it states:

- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
 - adversely affect the quiet enjoyments, security, safety or physical well-being of another occupant or the landlord;
 - jeopardize a lawful right or interest of another occupant or the landlord.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice, and the landlord seeks an Order of Possession and recovery of the \$100.00 filing fee.

Analysis

The *Residential Tenancy Act* specifies that once 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, I accept the evidentiary material and testimony of the landlord's agent that the tenant was served with the Notice on June 26, 2020 by posting it to the door of the rental unit, which is deemed to have been served 3 days later, or June 29, 2020. The landlord's agent testified that the landlord has not been served with an Application for Dispute Resolution by the tenant disputing the Notice, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession.

Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenants and occupants.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlord 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 landlord effective on 2 days notice to the tenant and any occupants.

I further grant a monetary order in favour of the landlord 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: September 21, 2020

Residential Tenancy Branch