



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, 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 landlords seeking an Order of Possession for landlord's use of property, and to recover the filing fee from the tenant for the cost of the application.

One of the landlords attended the hearing, and represented the other landlord. However, the line remained open while the telephone system was monitored for 10 minutes and no one for the tenant joined the call.

The landlord gave affirmed testimony, and the landlords have also provided evidentiary material. The landlord testified that the tenant was served with the Application for Dispute Resolution, notice of this hearing and all evidentiary material on September 2, 2020 by personally handing the package to the tenant. The *Residential Tenancy Act* permits personal service, and I accept the testimony of the landlord.

At the conclusion of the hearing, the landlord indicated that he withdraws the application for an order recovering the filing fee from the tenant, and seeks only an Order of Possession.

Issues to be Decided

Have the landlords established that the Two Month Notice to End Tenancy for Landlord's Use of Property was given in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord testified that the landlords purchased the rental home at the end of May, 2020 and the tenant had been living in the rental unit for 13 or 14 years prior, and still resides in the rental unit. Rent in the amount of \$600.00 is payable on the 1st day of each month. No rent has been paid for August, September or October, 2020. The landlords received a security deposit from the previous owners in the amount of \$250.00 which is still held in trust by the landlords, but no pet damage deposit was collected. The rental unit is a suite in the lower level of the house, and the landlords reside in the upper level.

On June 15, 2020 the landlord personally served the tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property, and a copy has been provided as evidence for this hearing. It is dated June 15, 2020 and contains an effective date of vacancy of August 31, 2020. The reason for issuing it states that the rental unit will be occupied by the landlord or the landlord's spouse.

The landlord testified that both landlords are presently residing in the upper unit and will be occupying the rental unit. Further, the landlord has had discussions with a by-law officer who advised that it is not a legal suite and is not supposed to be rented out.

The tenant has not served the landlords with an Application for Dispute Resolution disputing the notice to end the tenancy, and the landlord contacted the Residential Tenancy Branch who confirmed that the tenant has not disputed it.

Analysis

The *Residential Tenancy Act* specifies that once served with a Two Month Notice to End Tenancy for Landlord's Use of Property (the Notice), the tenant has 15 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 he has not been served with an Application for Dispute Resolution by the tenant, 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.

I have also reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. Therefore, I find that the landlords are 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 tenant.

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.

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: October 09, 2020

Residential Tenancy Branch