



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, OPC, OPB, OFL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession 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 called 1 witness who 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's witness testified that she was present and witnessed the landlord personally serve the tenant with the Application for Dispute Resolution and notice of this hearing (the Hearing Package) on September 17, 2020. I accept that testimony and I find that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence provided has been reviewed and is considered in this Decision.

Issues to be Decided

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

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on March 1, 2020 and the tenant still resides in the rental unit. Rent in the amount of \$900.00 is payable on the 1st day of each month. The tenant has not yet paid rent for this month.

At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$450.00 which is still held in trust by the landlord, and no pet damage deposit was collected.

The rental unit is a suite in a duplex and the landlord resides on the other side of the duplex. A copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that on August 31, 2020 the tenant was personally served with a One Month Notice to End Tenancy for Cause (the Notice), and a copy has been provided for this hearing. It is dated August 31, 2020 and contains an effective date of vacancy of September 30, 2020. The reasons for issuing it state:

- Tenant or a person permitted on the property by the tenant has:
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
 - put the landlord's property at significant risk;
- Tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant;
 - jeopardize a lawful right or interest of another occupant or the landlord;
- Tenant has caused extraordinary damage to the unit/site or property/park;
- Tenant has not done required repairs of damage to the unit/site;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;
- Tenant has assigned or sublet the rental unit/site without landlord's written consent.

A Proof of Service document has also been provided for this hearing signed by the landlord and the landlord's witness.

The tenant has not moved out of the rental unit and has not served the landlord with an Application for Dispute Resolution disputing the Notice, and the landlord seeks an Order of Possession.

Analysis

The *Residential Tenancy Act* specifies that once served with a One Month Notice to End Tenancy for Cause, 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 and must vacate the rental unit by the effective date of vacancy specified in the Notice.

In this case, I accept the undisputed testimony of the landlord's agent that the tenant was personally served with the Notice on August 31, 2020. I also accept the undisputed testimony of the landlord's agent 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 tenant.

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

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 held in trust 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: October 22, 2020

Residential Tenancy Branch