



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPN, FFL

Introduction

The landlord applies for an order of possession pursuant to a one month Notice to End Tenancy for cause and to recover the filing fee for this application. The application has misdescribed the landlord's request as an "OPN," referring to an application for an order of possession in the case where a tenant has given notice. The body of the application clearly indicates the true nature of the application and that is based on a one month Notice to End Tenancy for cause. I amend the application accordingly, it should have read "OPC."

The respondent tenant did not attend for the hearing within 20 minutes after its scheduled start time at 11:00 a.m. on October 13, 2020. The teleconference hearing connection remained open during that time in order to enable the parties to call into the teleconference hearing. The call-in numbers and participant codes provided in the Notice of Hearing were confirmed as correct. The teleconference system audio console confirmed that the landlord and this arbitrator were the only ones who had called into this teleconference during that period.

The landlord testifies that the Notice of Dispute Resolution Proceeding for this hearing was served on the tenant by registered mail (tracking number shown on cover page of this decision). Canada Post records show the mail was sent September 16, 2020 and that it was delivered September 18, 2020. Due to the current Covid epidemic, Canada Post is not obtaining recipient signatures for registered mail and so none is shown in the Canada Post records.

This rental unit is a basement suite in the landlord's house. He confirmed that the tenant receives mail in the landlord's mailbox. The landlord testifies that he has a security camera pointed at the mailbox and that he personally saw the recording of the

tenant retrieving the package containing the Notice of Dispute Resolution and landlord evidence on Friday, September 18, 2020.

The landlords' daughter HB testified and confirmed that the recording of this mail retrieval by the tenant was not submitted as evidence but that it was available.

On this evidence I find that the tenant has been duly served with the Notice of Dispute Resolution Proceeding.

I am satisfied that the tenant was served with a one month Notice to End Tenancy dated August 26, 2020 by attachment to her door on or about August 26, 2020. I find that the Notice was deemed to have been received by the tenant on August 29, 2020.

The tenant has not applied to dispute the Notice and so, by operation of s. 47(5) of the *Residential Tenancy Act*, the tenant is conclusively deemed to have accepted the ending of this tenancy.

The Notice states an effective date of October 14, 2020 for this tenancy to end. Monthly rent is payable on the 15th of each month under the tenancy agreement between the parties. I find that this tenancy will end on October 14, 2020 and the landlord is entitled to an order of possession.

As the landlord has been successful on this application I authorize him to recover the \$100.00 filing fee from the security deposit he holds.

I direct that the landlord preserve the recording of the tenant retrieving her registered mail on September 18, for at least **90 days** from today.

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 13, 2020

Residential Tenancy Branch