



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession for cause.

An agent for the landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone 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 evidence by registered mail on November 6, 2020 and has provided a Canada Post cash register receipt bearing that date as well as a Registered Domestic Customer Receipt, 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

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

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on July 1, 2018 and the tenant still resides in the rental unit. Rent in the amount of \$1,150.00 was originally payable on the 1st day of each month, which has been increased and is now \$1,304.00 per month, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$300.00 as well as a pet damage deposit in the amount of \$100.00, both of which are still held in trust by the landlord. The rental unit is an apartment in a subsidized housing complex containing 147 units, and a copy of the tenancy agreement has been provided for this hearing.

The landlord's agent further testified that on September 24, 2020 the tenant was personally served with a One Month Notice to End Tenancy For Cause (the Notice) by another agent of the landlord, which was also sent to the tenant by registered mail on September 25, 2020. A copy of the Registered Domestic Customer Receipt stamped with that date by Canada Post and a copy of the Canada Post cash register receipt also containing that date have been provided for this hearing. A copy of the Notice has also been provided, and it is dated September 24, 2020 and contains an effective date of vacancy of October 31, 2020. The reasons for issuing it state:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord's agent testified that the landlord had cause to issue the Notice, and has provided complaint letters about the tenant's dog and barking from other tenants in the rental complex, as well as letters to the tenant from the landlord.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the notice, and the landlord's agent testified that he checked with the Residential Tenancy Branch in November and December, 2020 and was advised that no dispute had been filed by the tenant. 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 within that 10 day period, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, I have reviewed the registered mail documentation provided by the landlord showing that the Notice was served on September 25, 2020, which is deemed to have been served 5 days later, or September 30, 2020. The landlord's agent testified that the tenant has not served the landlord with an Application for Dispute Resolution 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.

I have also reviewed the Notice, and I find that it is in the approved form and contains information required by the *Act*, 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 may 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 that the landlord may keep \$100.00 from 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: January 22, 2021

Residential Tenancy Branch