



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Harron Investments Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPL-4M

Introduction

This hearing was scheduled to convene at 1:30 p.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession to convert the rental unit for use by a caretaker, manager or superintendent of the residential property.

The landlord was represented at the hearing by an agent who gave affirmed testimony, and was accompanied by the owner of the residential property and another person who was introduced as the new caretaker, manager or superintendent of the residential property. 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 and notice of this hearing (the Hearing Package) by registered mail on May 27, 2021 and has provided a Canada Post cash register receipt bearing that date as well as a Registered Domestic Customer Receipt addressed to the tenant. I am satisfied 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.

Issue(s) to be Decided

Has the landlord established that the Four Months' Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of a Rental Unit 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 January 1, 2016 and the tenant still resides in the rental unit. Rent in the amount of \$870.00 was originally

payable on the 1st day of each month, which has been increased and is now \$985.00, and there are no rental arrears. At the outset of the tenancy the landlord at the time collected a security deposit from the tenant in the amount of \$435.00 which is still held in trust by the current landlord, and no pet damage deposit was collected. The rental unit is an apartment in a complex, which was purchased by the new owner about 1 ½ years ago. A copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that on March 28, 2021 the tenant was served with a Four Months' Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of a Rental Unit (the Notice) by posting it to the door of the rental unit. A photograph of such posting has been provided for this hearing, as well as a copy of the Notice. The Notice is dated March 28, 2021 and contains an effective date of vacancy of July 31, 2021. The reason for issuing it states: "to convert the rental unit for use by a caretaker, manager, or superintendent of the residential property."

The tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice, and the landlord seeks an Order of Possession effective on July 31, 2021.

Analysis

The *Residential Tenancy Act* permits a landlord to give a notice to end a tenancy if the landlord intends in good faith to convert the rental unit for use by a caretaker, manager or superintendent of the residential property. The *Act* also states that such a Notice must be effective on a date that is not earlier than 4 months after the date the tenant receives the Notice. In this case, I accept the undisputed testimony of the landlord's agent that the tenant was served with the Notice on March 28, 2021 by posting it to the door of the rental unit, which is deemed to have been served 3 days later, or March 31, 2021.

A tenant who has received the Notice may dispute it by making an application within 30 days after receiving it, and serving the landlord. 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. I find that the time for disputing it expired on April 30, 2021. Therefore, I am satisfied that the landlord is entitled to an Order of Possession effective at 1:00 p.m. on July 31, 2021.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective at 1:00 p.m. on July 31, 2021.

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: June 21, 2021

Residential Tenancy Branch