



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act, (the “Act”), for an order of possession based on an undisputed One Month Notice for Cause, issued on December 23, 2020.

The landlord’s agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on March 17, 2021. A Canada post tracking number was provided as evidence of service.

The agent stated there was a problem with tracking the number on the Canada post website, so they sent the package again on May 11, 2021, a Canada post tracking number was provided as evidence of service. The agent stated both packages were returned unclaimed by the tenant.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant served on March 22, 2021 and again on May 16, 2021. Refusal or neglect to pick up the packages does not override the deemed service provision of the Act.

The landlord's agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with the Notice by registered mail sent on December 23, 2020 and was received by the tenant on December 24, 2020. This is supported by the Canada Post tracking history.

The Notice explains the tenant had ten (10) days to dispute the Notice. The Notice further explains if the Notice is not disputed within the ten days that the tenant is presumed to accept the Notice and must move out of the rental unit by the date specified in the Notice.

The landlord's agent stated that all subsequent rent was been accepted for use and occupancy and that rent for June 2021, was not accepted. The landlord seeks an order of possession.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the evidence of the landlord that the Notice was completed in accordance with Part 4 of the Act - How to End a Tenancy, pursuant to section 47 of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 52 the Act.

Further, I accept the evidence of the landlord's agent that the tenant was served with the Notice in compliance with the service provisions under section 88 and 89 of the Act, which the tenant acknowledged service of the Notice by accepting the Canada post package.

I am satisfied based on the landlord's agent evidence that the landlord has met the statutory requirements under the Act to end a tenancy.

The tenant did not apply to dispute the Notice and therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant failed to dispute the Notice. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession.

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 18, 2021

Residential Tenancy Branch