



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPN, OPM, OPL

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession.

The landlords attended the hearing and gave affirmed testimony.

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 landlords testified the Application for Dispute Resolution and Notice of Hearing were served on the tenant in person on January 28, 2022, which was witnessed by a third party and was photographed. I find the tenant was served in accordance with section 89 of the Act.

Further, I note the tenant did call into the Residential Tenancy Branch on March 22, 2022, as this is noted in the digital file. The tenant wanted it to be noted that they are going into a treatment program and will call into the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord testified that they purchased the property, and a condition of the sale was that they wanted vacate possession and the tenant was served with a Two Month

Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice") and was to vacate on January 1, 2022. Filed in evidence is a copy of the Two Month Notice and proof of service.

The landlord testified that when they took possession of the property on January 8, 2022, the tenant was still on the premises, contrary to the Two Month Notice. The landlord stated that on January 9, 2022, the tenant then signed a mutual agreement to end the tenancy for January 31, 2022, and they gave the tenant some money at that time to help; however, the tenant did not vacate. Filed in evidence is a copy of the mutual agreement to end the tenancy, a photograph showing the tenant signing that agreement.

The landlord testified that they recently had a phone call from someone indicating they were a social worker who asked if the tenant could stay longer as they are expecting the tenant to go into a treatment centre on the April 18, 2022, for 90 days. The landlord stated they are not prepared to let the tenant stay any longer, as the tenant was supposed to have been out of the rental unit prior to them taking possession, and again by the mutual agreement.

The landlord's testified that the tenant has not paid any rent since January 2022.

Analysis

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

In this case, the landlord's purchased the property expecting the premises would be vacant on January 8, 2022. The tenant was served with a Two Month Notice; however, failed to vacate on January 1, 2022.

The tenant entered into a mutual agreement on January 9, 2022, to end the tenancy on January 31, 2022, with the landlord and took money from the landlord that they would normally not be entitled to; the tenant again failed to vacate on January 31, 2022.

In this case, I find the tenancy had legally ended on January 31, 2022, by the mutual agreement to end the tenancy. 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 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: April 11, 2022

Residential Tenancy Branch