



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPC, MNR, MND, MNSD, O, FF

Introduction

This hearing dealt with an application submitted by the landlord seeking an Order of Possession based on the One-Month Notice to End Tenancy for Cause dated April 8, 2011, and purporting to be effective June 10, 2011. The landlord was also seeking a monetary order for accrued rental arrears stated as \$7,700.00 in the application.

Issue(s) to be Decided

The issues to be determined on the landlord's application based on the testimony and the evidence are:

- Whether the landlord is entitled to an Order of Possession based on the One-Month Notice to End Tenancy for Cause.
- Whether or not the landlord is entitled to a monetary order for rental arrears, utilities owed and damage to the unit.

The burden of proof is on the landlord.

Background and Evidence

The tenancy had originally started approximately 5 years ago and the current rent is \$700.00 per month. The tenant paid a deposit of \$250.00. The landlord testified that the tenant had been repeatedly late with rent and that is why the One Month Notice was served on the tenant.

With respect to the landlord's claim for rental arrears, the landlord testified that the rent was behind, but he was not certain of the exact amount of the arrears.

The tenant's representative acknowledged that they received the One Month Notice to End Tenancy for Cause and did not dispute it within 10 days. The representative stated that in July the landlord had told them on July 8 2011 that he was going to drop this matter and the tenants were surprised to find that the hearing was going to proceed as scheduled. The tenant's representative stated that the tenants had intended to purchase the home and unfortunately one of the tenants has fallen seriously ill and was therefore

unable to meet the obligations of the tenancy. In any case, the tenants have vacated on July 15, 2011.

Analysis

Under section 47 of the Act, a landlord may terminate the agreement by giving notice to end the tenancy for repeated late payment of rent.

Regardless of whether or not the merit of the One-Month Notice to End Tenancy for Cause was found sufficient to support a termination of the tenancy, the fact is that these tenants had failed to dispute the Notice by making their own application within the statutory 10-day deadline to do so. If a tenant who has received a notice under section 47 fails to make an application for dispute resolution to dispute the Notice, the Act states that the tenant: (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and; (b) must vacate the rental unit by that date.

I find that, because the Notice was not disputed, I must grant the landlord an Order of Possession based on this Notice.

However, section 47(2) states that a notice under this section must end the tenancy effective on a date that is: (a) not earlier than one month after the date the notice is received, and; (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

With respect to the landlord's claim for rental arrears, I find that the landlord was not able to sufficiently prove the amount owed and therefore the claim must be dismissed.

Conclusion

Based on evidence and testimony I hereby issue an Order of Possession in favour of the landlord, effective immediately. The order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

The remainder of the landlord's claim is dismissed without leave to reapply.

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: July 21, 2011.

Residential Tenancy Branch