



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, OPB

Introduction

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

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The male landlord testified that the tenant was served with two notices to end the tenancy both issued on June 3, 2013 and served on June 4, 2013. The first notice to end the tenancy was for nonpayment of rent and the second notice to end the tenancy was for cause for late payments of rent. The landlord stated both notices were posted to the door of the rental unit.

The male landlord testified when they attended the rental unit the tenant was not at home, however they spoke directly to the tenant's teenage son and informed him that they were going to posting documents to the door and to ensure that his father looked at them.

The male landlord testified that the tenant has not paid any rent for June and July 2013. The male landlord stated they are unable to locate their copy of the notice to end tenancy for nonpayment of rent. A copy was not received in evidence when the landlord filed their application.

The male landlord testified that the notice to end the tenancy for cause, issued on June 3, 2013 and served on June 4, 2013, provided an effective vacancy date of June 30, 2013.

The female landlord testified that she was present at the rental unit when the documents were posted to the door of the rental unit and verifies that the tenant's son was home at that time and he also witness the documents posted on the door.

The witness for the landlord testified that she was present at the rental unit when the documents were posted to the door of the rental unit and also can verifies that the tenant's son was home and witness the documents being placed on the door.

The tenant testified that he did not receive any notices to end the tenancy that were posted to the door. The tenant stated that he is a commercial fisherman and would not have been unable to dispute any notices.

Analysis

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

In this case, the landlords' did not file a copy of the notice to end tenancy for nonpayment of rent that was issued on June 3, 2013 and were unable to provided sufficient details of the notice. As a result, I find the landlord have failed to provided sufficient evidence to support the notice to end tenancy for non payment of rent.

However, I note the landlord has not received any rent for June and July 2013.

The evidence of the male landlord, the female landlord and the witness was that they were at the rental unit on June 4, 2013, and posted a notice to end tenancy for cause on the door of the rental. Under the Residential Tenancy Policy Guidelines, a document posted in this manner is deemed to have been served three days later. The evidence of the tenant was that he never received the notice to end tenancy that was posted on the door on June 4, 2013.

Even, if I accept the tenant's version, which I do not. The tenant received a copy of the notice to end tenancy for cause, issued on June 3, 2013, when the tenant was served with landlords' application for dispute resolution on June 18, 2013, by registered mail, a copy of the notice to end tenancy for cause was included with the landlords' application.

The notice informed the tenant that they had ten days to dispute the notice. The notice also explains if the tenant does not file an application to dispute the notice within ten days, they are presumed to have accepted the notice and must move out of the rental unit on the date set out in the notice which was June 30, 2013. However, under section 53 of the Act, that date would automatically correct to July 31, 2013, as the Act required the landlord to provide the tenant with at least thirty days notice.

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

I find that the landlords are entitled to an order of possession effective **July 31, 2013 at 1:00 PM**. A copy of this order must be served on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The tenant did not file to dispute the notice to end tenancy for cause, issued on June 3, 2103. 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 landlords are 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: July 16, 2013

Residential Tenancy Branch

