



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

On March 2, 2017, the Landlord submitted an Application for Dispute Resolution for an order of possession, and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord G.M. attended the teleconference hearing; however, the Tenant did not. The Landlord testified that he served the Tenant with the Application for Dispute Resolution and Notice of Hearing, in person at the rental unit on March 3, 2017. I find that the Tenant has been duly served with the Notice of Hearing in accordance with the Act.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

- Is the Landlord entitled to an order of possession for cause?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that tenancy began on June 1, 2015, as a month to month tenancy. Rent in the amount of \$590.00 is to be paid on the first day of each month. The Tenant paid a \$295.00 security deposit. The Landlord provided a copy of the tenancy agreement.

The Landlord issued a 1 Month Notice to End Tenancy for Cause ("the Notice") by posting it on the Tenant's door on January 23, 2017. The Landlord provided a photograph showing the notice on the Tenant's door.

The reasons checked off by the Landlord within the Notice are as follows:

Tenant or a person permitted on the property by the Tenant has:

- Significantly interfered with or unreasonably disturbed another occupant or the Landlord
- Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord

Tenant has caused extraordinary damage to the unit/site property /park

Tenant has not done required repairs of damage to the unit/site

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so

The Notice states the Tenant must move out of the rental unit by February 28, 2017. The Notice informed the Tenant that he has the right to dispute the Notice within 10 days after receiving it. The Notice informed the Tenant that if an application to dispute the Notice is not filed within 10 days, he is presumed to accept the Notice and must move out of the rental unit on the date set out on page 1 of the Notice.

There is no evidence before me that that the Tenant made an application to dispute the Notice.

The Landlord seeks an order of possession effective immediately.

Section 47 (5) of the Act states that if a Tenant who has received a Notice under this section does not make an application for dispute resolution in accordance with subsection (4), the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice.

Analysis

Section 88 and 90 of the Act permits service of a notice to end tenancy by attaching a copy to a door at which the person resides. A notice served in this manner is deemed served on the third day after it is attached.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant is deemed to have received the 1 Month Notice and 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 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 (2) 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.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to pay the Landlords the \$100.00

fee that the Landlords paid to make application for dispute resolution. I order that the Landlords can keep the amount of \$100.00 from the Tenant's security deposit in satisfaction of this claim.

Conclusion

The Tenant did not file to dispute the 1 Month Notice. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession, and I order that the Landlord can keep \$100.00 from the Tenant's security deposit to pay for the filing fee.

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: March 31, 2017

Residential Tenancy Branch