



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kekinow Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession for cause.

An agent for the landlord attended the hearing and gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call. The landlord's agent testified that the tenant was served with the Landlord Application for Dispute Resolution and notice of this hearing on June 2, 2017 by registered mail which was returned to the landlord unclaimed by the tenant. The landlord has provided a copy of a Canada Post cash register receipt bearing that date and a Registered Domestic Customer Receipt addressed to the tenant containing a tracking number, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy for Cause was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on November 1, 2014 and expired on October 31, 2015, thereafter reverting to a month to month tenancy. The tenant still resides in the rental unit. Rent is subsidized and the tenant's share is \$660.00 per month payable on the 1st day of each month, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$500.00 which is still held in trust by the landlord, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided for this hearing.

The landlord's agent further testified that the tenant was served with a One Month Notice to End Tenancy for Cause on April 29, 2017, a copy of which has been provided. It is dated April 28, 2017 and contains an effective date of vacancy of May 31, 2017. The reason for issuing it states:

- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant;
 - jeopardize a lawful right or interest of another occupant or the landlord;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

A copy of a Proof of Service document has also been provided which is signed by a person stating that the notice was posted to the door of the rental unit on April 29, 2017.

The landlord has not been served with an application for dispute resolution disputing the notice, and the landlord seeks an Order of Possession and a monetary order for recovery of the filing fee.

Analysis

The *Residential Tenancy Act* provides a tenant with 10 days from service, or deemed service to dispute a One Month Notice to End Tenancy for Cause. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, I have reviewed the Proof of Service document and I accept that the notice was served on April 29, 2017 by posting it to the door of the rental unit, which is deemed to have been served 3 days later, or May 2, 2017. Since rent is payable on the 1st day of the month, I find that the effective date of vacancy must be changed to the nearest date that complies with the *Act*, which is June 30, 2017. I find that it is in the approved form and contains information required by the *Act*. The landlord's agent testified that the tenant has not served the landlord with an application for dispute resolution disputing the notice, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlord in that amount.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective at 1:00 p.m. on June 30, 2017.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00.

This order is final and binding and may be enforced.

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 28, 2017

Residential Tenancy Branch