



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC MND FF

Introduction:

Both parties attended the hearing and gave sworn testimony. The Notice to End Tenancy is dated November 18, 2017 to be effective November 18, 2017 and the tenants confirmed it and the Application for Dispute Resolution were served personally on them. The landlord agreed there was a mistake in the dates and the Notice to End Tenancy was intended to be dated October 18, 2017. The effective date on the Notice is automatically corrected to November 30, 2017 pursuant to section 53 of the *Residential Tenancy Act* as a one month Notice to End Tenancy for cause must give a full month's notice and according to section 47(2) (b) end the tenancy on the day before the day in the month that rent is payable under the tenancy agreement. I find the documents were legally served for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain an Order of Possession for cause pursuant to section 47 of the Act;
- b) To obtain possession early pursuant to section 56; and
- c) To recover the filing fee for this application.

Preliminary Issue:

The landlord filed an Amendment to the Application requesting changes to remove some of the names of the tenants originally listed. The tenants agreed that some tenants had moved on so names should be removed. The change was made as requested.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenancy is ended pursuant to sections 47 and they are entitled to an Order of Possession? Is the landlord entitled to recover the filing fee?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in October 1, 2016, it is now a month to month tenancy, rent is \$1350 a month and a security deposit of

\$675 was paid. The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons: *The rental unit must be vacated to comply with a government order.*

The landlord provided evidence of a City Order requiring them to have the home vacated and substantial renovations done to comply with the City Order. The tenants said they understood and sympathized. They had not filed an Application to Dispute the landlord's Application but they were having problems finding housing.

Analysis:

Section 47 of the Act provides a landlord may end a tenancy if there is sufficient cause. Causes, any one of which may be a sufficient reason, are listed in that section. I find section 47(4) states a tenant has 10 days to dispute the Notice to End Tenancy. If they do not file an application to dispute within this time, I find section 47(5) provides they are conclusively presumed to have accepted the end of the tenancy on the date set out on the notice and must vacate the rental unit by that date. I find the tenants did not dispute the Notice so are presumed to have accepted the end of tenancy. As noted above, the corrected date for the Notice to End Tenancy is November 30, 2017. I find the tenancy is at an end on November 30, 2017.

I find insufficient evidence to support that the tenancy must be ended earlier. Section 56 of the Act outlines some criteria for ending a tenancy earlier than the one month notice would take effect. These criteria deal mainly with significantly disruptive tenants who are causing severe problems to others. I find this does not apply to this tenancy so the normal notice period has been applied. I find the weight of the evidence is that the unit has to be vacated to comply with the government order to renovate to code.

Conclusion:

I find the landlord entitled to an Order of Possession effective November 30, 2017 (as corrected) which is enclosed. I find her also entitled to recover filing fees of \$100 and a monetary order is enclosed.

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: November 07, 2017

Residential Tenancy Branch