



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA WOMEN'S RESOURCE SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, OPN

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord filed under the *Residential Tenancy Act* (the “Act”), for an order of possession to enforce a One Month Notice to End Tenancy for Cause, (the “Notice”) issued on January 15, 2018.

The Landlord attended the hearing. The Landlord was affirmed to be truthful in her testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. The Landlord testified that she personally served the Tenant with the Notice of Hearing by hand delivering a copy to the Tenant at the rental unit on March 1, 2018. I find that the Tenant had been duly served with the Notice of Hearing in accordance with the Act.

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

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession under section 47 of the *Act*?

Background and Evidence

The Landlord testified that the tenancy began on July 15, 2011, as a month to month tenancy. Rent in the amount of \$375.00 is to be paid by the first day of each month. The Tenant paid the Landlord a \$359.00 security deposit. The Landlord testified that the rent for the rental unit is based on a percentage of the Tenant's income; however, the security deposit is based on the market rate for the rental unit.

The Landlord testified that the Notice was served to the Tenant on January 15, 2018, in person. The Notice has an effective date of February 28, 2018. The reasons checked off by the Landlord within the One Month Notice are as follows:

- Tenant has engaged in illegal activity that has, or is likely to:
 - Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
 - Jeopardize a lawful right or interest of another occupant or the landlord

The Notice informed the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice also informed the Tenant that if an application to dispute the Notice is not filed within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit on the date set out on page one of the Notice.

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

The Landlord is seeking an order of possession for May 31, 2018.

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant received the Notice on January 15, 2018, and did not apply to dispute the Notice. The Tenant 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 at 1:00 pm on May 31, 2018, 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.

Conclusion

I find that the Tenant did not dispute the Notice and is therefore presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

I grant the Landlord an order of possession effective at 1:00 pm on May 31, 2018.

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: May 14, 2018

Residential Tenancy Branch