



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNDC, FFL

Introduction

On May 29, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) requesting an order of possession based on issuance of a 2 Month Notice to End Tenancy for Landlord Use of Property (“the Two Month Notice”). The Landlord also applied for compensation for damage or loss under the Act, Regulation, or tenancy agreement.

The matter was set for a conference call hearing. The Landlord appeared at the hearing; however, the Tenants did not. The Landlord testified that he served the Tenants with the Notice of Dispute Resolution Proceeding using registered mail. The Landlord provided a copy of the registered mail receipts that he sent to each Tenant on June 1, 2018. I find that the Tenants were served with the Notice of Dispute Resolution Proceeding in accordance with sections 89 and 90 of the Act.

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 to be Decided

- Is the Landlord entitled to an order of possession?
- Is the Landlord entitled to compensation?

Background and Evidence

The Landlord testified that the tenancy began in October 2014, as a fixed term tenancy. Rent in the amount of \$1,500.00 was to be paid by the first day of each month. The Tenants paid the Landlord a security deposit in the amount of \$725.00.

The Landlord issued the Tenant a 2 Month Notice dated April 30, 2018. The reason for ending the tenancy in the Notice states:

The rental unit will be occupied by the Landlord or the Landlord's spouse or a close family member of the Landlord or the Landlord's spouse.

The effective date shown on the 2 Month Notice is June 30, 2018.

The 2 Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 15 days after it is assumed to be received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

If a Tenant does not file an Application within 15 days, the Tenant is presumed to accept that the tenancy is ending and must move out of the rental unit by the date set out on page 1 of the Notice. If the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

The Landlord testified that the Tenants did not dispute the 2 Month Notice and he believed the Tenants would not move out of the rental unit on the effective date of the Notice, so he applied for dispute resolution seeking an order of possession.

The Landlord testified that the Tenants moved out of the rental unit on June 30, 2018.

The Landlord testified that the Tenants were renting out rooms in the rental house without the authorization of the Landlord. The Landlord testified that he did not give the Tenants permission to have roommates or to sublet rooms to other occupants. The Landlord testified that the tenancy agreement does not permit them to rent out rooms to roommates or other occupants.

The Landlord testified that he informed the Tenants that these occupants were not permitted and asked the Tenants to stop allowing unauthorized occupants.

The Landlord submitted that he feels he is entitled to compensation in the amount of \$6,000.00 because the Tenants were renting out rooms and receiving rent. The Landlord is seeking \$500.00 per month for 12 months.

Analysis

Pursuant to section 49 (6) of the Act, if a Tenant does not file an Application within 15 days, the Tenant is presumed to accept that the tenancy is ending and must move out of the rental unit by the date set out on page 1 of the Notice.

Under section 55 (2)(b) of the Act, if the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

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

The Tenants received the 2 Month Notice on April 30, 2018, and did not dispute the Notice within 15 days. Pursuant to section 49 (6) of the Act, I find that the Tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice. The Tenants accepted the Notice and moved out of the rental unit on June 30, 2018.

Since the Tenants moved out on the effective date of the 2 Month Notice, the tenancy ended on that date and the Landlord does not require an order of possession.

With respect to the Landlord's claim for compensation, while I find that that the Tenants were in breach of the tenancy agreement by allowing unauthorized occupants or roommates, to live in the rental unit, I find that this does not entitle the Landlord to compensation. The Landlord was at liberty to point out the breach to the Tenants and could have issued a 1 Month Notice To End Tenancy For Cause for a breach of a material term.

The Landlord's claim for \$6,000.00 is dismissed.

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 repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. I grant authority to the Landlord to withhold \$100.00 from the Tenant's security deposit for the application fee.

Conclusion

The Tenants received the 2 Month Notice and did not dispute the Notice. The Tenants moved out of the rental unit on June 30, 2018.

Since the Tenants moved out on the effective date of the 2 Month Notice, the Landlord does not require an order of possession.

The Landlord is not entitled to compensation to recover the rent the Tenants collected from unauthorized occupants. The Landlord's claim for \$6,000.00 is dismissed.

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 17, 2018

Residential Tenancy Branch