



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

This hearing convened as a result of a Landlord's Application for Dispute Resolution wherein the Landlord sought an Order of Possession based on a 1 Month Notice to End Tenancy for Cause issued on August 20, 2019 (the "Notice") as well as recovery of the filing fee.

The hearing was scheduled for 11:00 a.m. on November 21, 2019. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Landlord's agent, S.A.

The Tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:12 a.m.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

Issues

1. Is the Landlord entitled to an Order of Possession?
2. Should the Landlord recover the filing fee?

Background Evidence

The Landlord's Agent testified that this tenancy began approximately eight years ago. The Landlord accepted a security deposit in the amount of \$550.00.

The Landlord issued the Notice on August 20, 2019. The reasons cited on the Notice were that the rental unit must be vacated to comply with a government order. The

Landlord also provided copies of letters from the City in which the rental unit was located confirming that the rental unit did not comply with the relevant bylaws and Building Code.

Based on the testimony of S.A., and the documents filed in evidence, I find that the Tenant was served with the Notice by registered mail sent on August 20, 2019. A copy of the registered mail tracking number for this package is also included on the unpublished cover page of this my Decision. Section 90 of the *Act* provides that documents served in this manner are deemed served five days later. Accordingly, I find pursuant to section 88, that the Tenant was served with the Notice as of August 25, 2019.

The Notice informed the Tenant that they had ten days in which to apply to dispute the Notice.

The Landlord's Agent testified that the Tenant failed to make such an application.

Analysis

Based on the Landlord's undisputed documentary evidence, and testimony of the Landlord's Agent, and on the balance of probabilities, I find the following.

The Tenant did not apply to dispute the Notice and is conclusively presumed, pursuant to section 47(5) to accept the end of the tenancy and must vacate the rental unit. The Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act* which will be effective at **1:00 p.m.**, two days after service. This Order must be served on the Tenant and may be filed in the Supreme Court and enforced as an Order of that court.

As the Landlord's application was successful, I grant the Landlord the recovery of the \$100.00 filing fee. Pursuant to sections 38 and 72 of the *Act* the Landlord may withhold \$100.00 from the Tenant's security deposit as recovery of this fee.

Conclusion

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

The Landlord is entitled to an Order of Possession and may retain \$100.00 from the Tenant's security deposit as recovery of the filing fee.

This Decision is final and binding on the parties, except as otherwise provided under the Act, and 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 21, 2019

Residential Tenancy Branch