



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, OPL

Introduction

This hearing was scheduled to convene at 11:00 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession for landlord's use of property and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord testified that the tenant was served with the Application for Dispute Resolution and notice of this hearing (the Hearing Package) by registered mail on September 14, 2020 and has provided a copy of a Registered Domestic Customer Receipt and a Canada Post cash register receipt bearing that date, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issues to be Decided

Has the landlord established that the Two Month Notice to End Tenancy for Landlord's Use of Property was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord testified that this month-to-month tenancy began 6 or 7 years ago, and the tenant still resides in the rental unit with her husband. Rent in the amount of \$900.00 is payable on or before the 4th day of each month. The landlord is not certain whether or not there are any rental arrears.

At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$125.00, which is still held in trust by the landlord, and no pet damage deposit

was collected. The rental unit is a basement suite and the landlord's daughter resides in the upper level of the house. There is no written tenancy agreement.

The landlord further testified that on June 30, 2020 the landlord personally served the tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property, and a copy has been provided for this hearing. It is dated June 30, 2020 and contains an effective date of vacancy of September 1, 2020. The reason for issuing it states: "The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse)." It also specifies that the landlord will occupy the unit.

The landlord testified that his wife is disabled, and the landlord and his wife will be moving into the basement suite. The landlord also told the tenant in June, 2020 that the tenant is entitled to one month's rent, but the tenant and husband told the landlord that they are not moving out.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice, and the landlord seeks an Order of Possession.

Analysis

The *Residential Tenancy Act* specifies that once served with a Two Month Notice to End Tenancy for Landlord's Use of Property (the Notice), the tenant has 15 days to dispute it by filing and serving the landlord with an Application for Dispute Resolution. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date contained in the Notice.

In this case, I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. I am also satisfied that the Notice was personally served to the tenant on June 30, 2020. The landlord testified that he has not been served with an Application for Dispute Resolution by the tenant 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 effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee. I order the landlord to keep \$100.00 of the security deposit held in trust as full recovery.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further order the landlord to keep \$100.00 of the security deposit held in trust as full recovery of the filing fee.

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: October 23, 2020

Residential Tenancy Branch