



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CHANG LEE PROPERTY LTD and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFT

Introduction

On August 10, 2021, the Landlord submitted an Application for Dispute Resolution requesting an order of possession for the rental unit based on a One Month Notice to End Tenancy for Cause that was issued to the Tenants.

The matter was set for a conference call hearing. The Landlord and his agent attended the conference call hearing; however, the Tenants did not. The line remained open while the phone system was monitored for eighteen minutes and the Tenants did not call into the hearing during this time.

The Landlord's agent testified that the property owner served the Notice of Dispute Resolution Proceeding to the Tenants on August 26, 2021, by posting the notice to their door. The Landlord's agent called the owner into the hearing who provided affirmed testimony that he served the Notice of Dispute Resolution Proceeding on August 26, 2021.

I find that the Notice of Dispute Resolution Proceeding was served to the Tenants in accordance with sections 89 and 90 of the Act. The Tenants are deemed to have been served on August 29, 2021, three days after the Notice was posted to their door. The hearing proceeded.

The Landlord were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during 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.

Issues to be Decided

- Is the Landlord entitled to an order of possession for the rental unit?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord's agent ("the Landlord") testified that the tenancy began on November 1, 2018 and is on a month-to-month basis. Rent in the amount of \$680.00 is to be paid to the Landlord by the first day of each month. The Tenants paid a security deposit of \$325.00 to the Landlord.

The Landlord testified that the issued the Tenant a One Month Notice to End Tenancy for Cause ("the One Month Notice") by posting the One Month Notice to the Tenants' door on July 23, 2021. The Landlord provided a proof of service document in support of service. The Landlord provided a copy of the One Month Notice.

The reasons cited by the Landlord within the One Month Notice are as follows:

Tenant is repeatedly late paying rent

Tenant or a person permitted on the property by the Tenant has:

- *Significantly interfered with or unreasonably disturbed another occupant or the Landlord*
- *Put the Landlord's property at significant risk*

The One Month Notice provides that the Tenants must move out of the rental unit by August 31, 2021.

The One Month Notice provides information on the rights of a Tenant. The Notice informs the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice informs 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 effective date set out on page one of the Notice.

The Landlord testified that the Tenants did not dispute the One Month Notice and failed to vacate the rental unit on the effective date of the Notice.

The Landlord seeks an order of possession for the rental unit, based on the undisputed One Month Notice to End Tenancy for Cause dated July 23, 2021. The Landlord testified that the Tenants have not paid the rent owing for December 2021.

The Landlord was asked about the reasons for issuing the One Month Notice. The Landlord stated that one reason is that the Tenants are continuously late paying the rent. The Landlord provided copies of rent receipts showing all the months that the rent has been paid late. The Landlord produced a table that indicates the rent has been paid late 13 times over the past 14 months.

Analysis

Based on the evidence before me, the testimony of the Landlord and on a balance of probabilities, I find that the Tenants received a One Month Notice to End Tenancy for Cause dated July 23, 2021.

The One Month Notice provided the Tenant with his rights of dispute. If the Tenant believed that the Landlord did not have sufficient reasons for ending the tenancy, the Tenants were required to dispute the Notice within 10 Days. The Tenants opportunity to dispute the One Month Notice has expired.

I find that the Tenants did not apply to dispute the One Month Notice and are 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 had a valid reason to issue the One Month Notice related to repeated late payment of rent.

Section 55 of the Act provides that a Landlord may request an order of possession of a rental unit when a notice to end tenancy is given by a Landlord and the Tenant has not disputed the Notice and the time for making that application has expired.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective two (2) days after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution. I authorize the

Landlord to keep \$100.00 from the security deposit of \$325.00 in full satisfaction of the filing fee.

Conclusion

The Tenants received and did not file to dispute the One Month Notice and did not vacate the rental unit. The Tenants are presumed under the legislation to have accepted that the tenancy ended on the effective date of the Notice.

December rent has not been paid. The Landlord is granted an order of possession effective two (2) days, after service on the Tenants.

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: December 14, 2021

Residential Tenancy Branch