

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession under s. 55 of the RTA for cause under s. 47 (1) (b) for the tenant being repeatedly late paying rent, and for a monetary order under s. 72 to recover the filing fee from the tenant for the cost of this application. Both the Landlord and the tenant participated in the conference call hearing and were each affirmed to be truthful in their testimony. Each confirmed that the issues before this hearing could not be mediated to the satisfaction of both parties.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an order of possession?

Is the landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy began on October 1, 2007. Rent in the amount of \$800 is payable in full and in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$400. The landlord provided evidence which was confirmed by the tenant that on 6 occasions since the beginning of this calendar year the rent was paid subsequent to the payable due date and other than on one occasion it was not paid in full installments.

January 18, 2008	paid \$400
May 5, 2008	paid \$400
May 9, 2008	paid \$400
May 23, 2008	paid \$660 toward June 2008
June 11, 2008	paid \$140
July 4, 2008	paid \$400
October 2, 2008	paid \$800

On October 3, 2008 the landlord served the tenant with a notice to end tenancy for cause. During the hearing the landlord testified that the rent for November had not been paid to which the tenant testified that the reason was because they vacated the rental unit in early November but had been inside the rental unit on at least 2 occasions during the month of November. The landlord stated she was not in a position to confirm if the tenant had physically vacated the rental unit having seen the tenant at the rental unit on November 12, 2008. By today's date both parties agreed that notice to vacate had not been provided to the landlord nor had the keys been returned to the landlord.

Analysis

I find the tenant was repeatedly late in paying rent and that the notice to end tenancy is valid.

I find the landlord is entitled to an order of possession and that the requested date of November 30, 2008 is appropriate.

I find the landlord is entitled to recover the filing fee of \$50 and given the tenant's testimony of the state of the tenancy, order that the landlord retain this amount from the proceeds of the damage deposit.

Conclusion

I am making an order that the tenant vacate the rental unit by November 30, 2008. I further order that the landlord may retain the amount of \$50 from the security deposit in satisfaction of the filing fee paid under section 59.

Dated November 19, 2008

Dispute Resolution Officer