



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 pursuant to the *Residential Tenancy Act* for orders as follows:

- An order of possession for cause, pursuant to Section 55;
- An order to recover the cost of filing the Application for Arbitration, pursuant to Section 72.

The notice of hearing dated December 09, 2008 was served to the tenant on December 10, 2008, by registered mail. Despite having been served the notice of hearing, the tenant did not show up for the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issues to be decided

- Is the landlord entitled to an order of possession?
- Is the landlord entitled to a monetary order to recover the filing fee?

Background and Evidence

The landlord testified that the tenancy started on January 01, 2002. The monthly rent was set at \$345.00 due in advance on the first day of the month. The tenant paid a security deposit on December 20, 2001 in the amount of \$172.50. On November 27, 2008 the landlord served the tenant with a 30 day notice to end tenancy for significantly disturbing other occupants, jeopardizing the health and safety of other occupants, engaging in illegal activity and breaching a material term of the tenancy. The effective date of the notice was December 31, 2008.

The landlord stated that on January 06, 2009, the landlord received a letter dated January 05, 2009 from the tenant, stating that the tenant would be moving out on January 10, 2009.

Analysis

Pursuant to section 47(4) of the *Residential Tenancy Act*, a tenant may dispute a notice under this section by making an application for dispute resolution within ten days after the date the tenant receives the notice. Section 47(5) states that if a tenant does not make an application for dispute resolution within ten days after receiving the notice to end tenancy, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. In this case, the tenant did not dispute the notice to end tenancy by making an application for dispute resolution and the time for making that application has expired. Accordingly, pursuant to section 55(2), I am issuing a formal order of possession effective two days after service on the tenant. This Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to the recovery of his filing fee and I order that the landlord retain \$50.00 from the security deposit.

Conclusion

The landlord is granted an order of possession and the landlord may retain \$50.00 from the security deposit.

Dated January 12, 2009.

Dispute Resolution Officer