

Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: *FF, O*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for:

- An order of possession, pursuant to Section 55;
- A monetary order to recover the filing fee pursuant to Section 72.

The notice of hearing dated February 11, 2009 was served on the tenant in person on February 14, 2009. Despite having been served the notice of hearing, the tenant did not attend the hearing.

The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

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 on January 09, 2009 he entered into a mutual agreement with the tenant to end the tenancy effective March 31, 2009. The landlord filed a copy of this agreement which is written on a form that is approved by the Residential Tenancy Branch, and is signed by both parties. The tenant is still in occupation of the rental unit as of the date of this hearing. The landlord is applying for an order of possession and to recover the filing fee.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim.

Pursuant to section 44(1) (c) of the *Residential Tenancy Act*, a tenancy ends if the landlord and tenant agree in writing to end the tenancy. Under these circumstances, a landlord may request an order of possession of a rental unit by making an application for dispute resolution.

Pursuant to section 55(2) (d) I am issuing a formal order of possession effective on or before 1:00 p.m. on March 31, 2009, which is the date specified in the mutual agreement to end the tenancy.

Since the landlord chose to apply for an order of possession prior to the date specified in the mutual agreement to end the tenancy, I find that the landlord must bear the cost of filing this application.

Conclusion

I grant the landlord an order of possession effective on or before 1:00 p.m. on March 31, 2009. This order may be filed in the Supreme Court for enforcement. The landlord's application to recover the filing fee is dismissed.

Dated March 27, 2009.

Dispute Resolution Officer