



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, CNC, LRE, OPT, AAT, AS, FF

Introduction

This hearing was scheduled for 12:00 p.m. on this date to deal with cross applications. The landlords made an application against two co-tenants for an Order of Possession for cause and recovery of the filing fee. The male tenant made an application to cancel a Notice to End Tenancy for cause, to suspend or set conditions on the landlord's right to enter the rental unit, to obtain an Order of Possession, to allow access to the unit for the tenant or the tenant's guests, to allow the tenant to assign or sublet the rental unit.

The landlord appeared at the hearing; however, the tenants did not appear at the hearing by 12:20 p.m. The landlord confirmed that she had been served with the Tenant's Application for Dispute Resolution. As the landlord appeared and was prepared to proceed with the tenant's application, I dismissed the tenant's application in its entirety without leave to reapply.

The landlord testified that she personally served each tenant with a Notice of Hearing and the Landlord's Application for Dispute Resolution in person at the rental unit within the time limits required by the Act. Having been satisfied the tenants had been adequately served with the landlord's application I proceeded to hear from the landlord without the tenants present.

Issues(s) to be Decided

1. Landlords' entitlement to an Order of Possession.
2. Award of the filing fee.

Background and Evidence

The landlord submitted that a *1 Month Notice to End Tenancy for Cause* was personally served upon the tenants on May 3, 2009. The landlord testified the tenants failed to pay rent for June 2009 and the landlord then served a 10 Day Notice to End Tenancy for Unpaid Rent on June 3, 2009. The male tenant gave the keys to the rental unit to the landlord and the tenants abandoned the rental unit on June 16, 2009.

The landlord testified that the tenancy existed prior to the landlords purchasing the property. According to the tenancy agreement provided to the landlords a security deposit paid by the tenants. The landlord does not know the whereabouts of the tenants and does not believe the tenants have the means to pay the landlord an award for the filing fee so the landlord withdrew the request to recover the filing fee from the tenants.

Analysis

Section 44 of the Act provides that a tenancy ends when a tenant vacates or abandons a rental unit. Based on the testimony I heard, I find the tenants vacated or abandoned the rental unit on June 16, 2009 and the landlord has regained possession of the rental unit; therefore, an Order of Possession for the landlords is no longer required.

I do not provide the landlords with a Monetary Order for recovery of the filing fee at the request of the landlord.

Conclusion

The tenancy ended June 16, 2009 when the tenants abandoned or vacated the rental unit and an Order of Possession for the landlord is no longer required.

The tenant's application was dismissed without leave to reapply.



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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: June 18, 2009.

Dispute Resolution Officer