



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes For the landlord OPB
 For the tenant MT, CNC, OLC

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were due to be heard together. However, the tenant did not appear at the hearing and therefore his application is dismissed without leave to reapply. The landlord seeks an Order of Possession for cause.

The landlord served the tenant by hand on May 24, 2009 with a copy of the Application and Notice of Hearing. The tenant served the landlord by registered mail on April 29, 2009 with a copy of the application and a Notice of the Hearing. I find that both parties were properly served pursuant to s. 89 of the *Act* with notice of this hearing.

Both parties were provided the opportunity to present evidence and make submissions. As the tenant did not appear the submissions are made by the landlord. On the basis of the evidence presented at the hearing, a decision has been reached.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

This tenancy started on March 01, 2009. It is a month to month tenancy and rent is \$650.00 per month payable on the 1st of each month. The tenant paid a security deposit of \$325.00 on March 01, 2009. The landlord issued the tenant with a One Month Notice on March 31, 2009. However, this was not issued on a proper form which caused the tenant to dispute the notice. The landlord rectified this by issuing the tenant with a One Month Notice on the correct form on May 01, 2009.

The landlord testifies that the tenant has broken the terms of the agreement by smoking in and around the property. The landlord claims that the tenant has allowed other people to reside at the property without the landlords' permission. The landlord claims that the tenant has significantly interfered with and unreasonable disturbed both the landlord and other tenants next door. The landlord claims that the tenant has been smoking inside the rental unit and it has set off the smoke alarms late at night. The landlord is worried about the fire risk as well as the disturbance to himself when he has to get up early for work. The addendum to the tenancy agreement stipulates that the tenant must not smoke on the premises. The landlord claims that the tenant and his guests have acted in a threatening way to tenants next door by obstructing their way into their home, acting in a threatening manner and smoking within distance of their doorway. The landlord claims that the tenant has also verbally threatened his wife when she asked him to clear some garbage up. At this time the police were called and the landlord has included a police file number for reference.

The landlord testifies that he believes the tenant is moving out of the rental unit but would like to continue with his application for an Order of Possession in the event that the tenant does not move or hand back the keys.



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Analysis

While some of the tenants' actions do not constitute a significant risk or breach of the tenancy agreement, collectively they show that the tenant had little regard for the landlord, his family, his property, neighbouring tenants or the tenancy agreement. In light of the tenant not appearing for this hearing or presenting any evidence to support his application for Dispute Resolution. I find that the landlords' One month Notice to End tenancy is upheld.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective **two days** after service on the tenant. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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 03, 2009.

Dispute Resolution Officer