

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession and cancel the Tenancy early.

Service of the hearing documents, by the landlord to the Mother Tenant, was done in accordance with section 89 of the *Act*, served personally by the Property Manager to the Mother Tenant, in the presence of the Witness, on July 3, 2009 at the rental unit.

The Daughter Tenant was not served notice of Dispute Resolution as she has vacated the rental unit.

The Landlord's Property Manager and Witness appeared, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

The Mother Tenant did not appear despite being served with notice of today's hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Is the Landlord entitled to an Order of Possession and to End the Tenancy Early under Section 56 of the *Residential Tenancy Act*?

Background and Evidence

The fixed term tenancy began on February 1, 2009 and is scheduled to expire on January 31, 2010. Rent is payable on the first of each month in the amount of \$1,050.00 and the Tenants paid a security deposit of \$525.00 on approximately January 28, 2009.

The Property Manager testified that the Tenants were short \$150.00 for the May rent, and have not made any payments towards June or July 2009 rent. A 10 Day Notice to End Tenancy was issued to the Tenants on June 26, 2009 and was served personally by the Property Manager to the Mother Tenant in the presence of the Witness.

The Witness testified that the 10 day notice to end tenancy was served on June 26, 2009 at 2:00 p.m. to the Mother Tenant in his presence, at the rental unit.

The Property Manager advised that their claim today is for an Order of Possession and to recover the filing fee from the Tenants and that they will apply for a monetary claim at a later date.

The Property Manager argued that they need to gain possession soon and have the Mother Tenant move out as soon as possible as she has been caught on tape stealing from other Tenant's lockers and trying to break into the mailboxes. The police were called, the Mother Tenant was charged, and was later released from their custody.

Analysis

Evidence filed by the Landlord indicates that the Tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent in person, on June 26, 2009 at 2:00 p.m. The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent or apply to dispute the Notice to End Tenancy within five days. I accept that the tenants have been served with notice to end tenancy effective on July 6, 2009, 10 days after service was effected.

Order of Possession - Based on the foregoing, I find that the Tenants are conclusively presumed, under section 46(5) of the Act, to have accepted that the tenancy ended on the effective date of the Notice.

Filing fee - \$50.00. I find that the Landlord has succeeded in large and that he should recover the filing fee from the Tenants.

Monetary Order – I find that the Landlord is entitled to recover the filing fee from the Tenants and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenants' security deposit plus interest.

Filing fee	50.00
Sub total (Monetary Order in favor of the landlord)	\$50.00
Less Security Deposit of \$525.00 plus interest of \$0.00	- 525.00
Balance of Security Deposit and Interest	\$ 475.00

The balance of the Tenants' security deposit is to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This order must be served on the Respondent 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: July 14, 2009.

Dispute Resolution Officer