

DECISION

Dispute Codes OPR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for Landlord's use and to recover the cost of the filing fee from the Tenants for this application.

Service of the hearing documents, by the Landlord to each Tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on October 16, 2009. Mail receipt numbers were provided in the Landlord's documentary evidence. The Tenants are deemed to be served the hearing documents on October 21, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

The Landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Is the Landlord entitled to Orders under sections 55 and 72 of the *Residential Tenancy Act*?

Background and Evidence

The Landlord testified that he served the Tenants with a "copy" of the 2 Month Notice to End Tenancy for Landlord's use on August 12, 2009. The Landlord argued that he submitted the original notice into evidence as he gave each Tenant a photocopy of the notice, in person at the rental unit.

The Landlord stated that the Tenants have begun to move their possessions out of the rental unit however they are still in full possession of the unit.

The Landlord is seeking the Order of the Possession and to recover the filing fee from the Tenants.

Analysis

I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenants on August 12, 2009 and the effective date of the notice is November 30, 2009 pursuant to section 90 of the *Act*.

I accept the evidence before me that the Tenants have failed to apply to cancel the notice to end tenancy within the specified time period. 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.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenants**. This order must be served on the Tenants and may be filed in the Supreme Court and enforced as an order of that Court.

I HEREBY FIND in favor of the Landlord's monetary claim to recover the filing fee. A copy of the Landlord's decision will be accompanied by a Monetary Order for \$50.00. The order must be served on the respondents and is enforceable through the Provincial Court 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: November 30, 2009.

Dispute Resolution Officer