



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MND, MNSD, OPC

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by hand on October the 11th 2009, but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request for an Order of Possession based on a one month Notice to End Tenancy, a request for a monetary order for \$375.00, a request to retain the security deposit plus interest towards the claim, and a request that the respondent bear the \$50.00 cost of the filing fee that was paid for this hearing

Background and Evidence

The applicant testified that:

- The tenant was personally served a Notice to End Tenancy on July 10, 2009.
- The tenant has filed no dispute of that notice and therefore the landlord wants an Order of Possession
- The landlord has accepted payments for use in occupancy only after that notice was served.



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- The tenants rental unit is packed full of junk and therefore the landlord believes he will have some costs to clean and remove the junk at the end of the tenancy.

The landlord is therefore requesting an Order of Possession for December 31, 2009, and is requesting an order that he be allowed to retain the full security deposit plus interest to cover any damages that may have occurred during the tenancy, and any need for cleanup. The landlord is also requesting an order that the respondent bear the \$50.00 cost of the filing fee.

Analysis

It is my decision that I will allow the landlords request for an Order of Possession, because if a tenant is served with a Notice to End Tenancy and does not dispute within the time limits set out in the Residential Tenancy Act, the tenant is conclusively presumed to have accepted the end of the tenancy.

I dismiss with leave to reapply the landlords request for \$375.00, and to retain the security deposit towards that. This claim has been made prematurely, as the landlord does not know what condition the unit will be left in when the tenant vacates.

I allow the landlords claim for the \$50.00 filing fee that was paid for this hearing.

Conclusion

I have issued an Order of Possession for 12:00 noon on December 31, 2009 and an order for the tenant to pay the \$50.00 filing fee to the landlord.

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: December 15, 2009.

Dispute Resolution Officer