

DECISION

Dispute Codes: OPC and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a Notice to End Tenancy for cause issued on December 11, 2009.

Despite having been served with the Notice of Hearing sent by registered mail on January 8, 2010, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession.

Background and Evidence

The landlord in this application is himself a tenant and the only signatory to a rental agreement signed in 2005 with the property owner and landlord. The applicant resided in and rents rooms in the house and the named "tenant" herein rents from the applicant. The applicant was a party to a hearing on February 15, 2010 as a result of his application to set aside a Notice to End Tenancy for cause served on him by the landlord and setting an end of tenancy date of February 28, 2010.

That matter was heard by the undersigned Dispute Resolution Officer with the result that the Notice to End Tenancy was upheld. As a result, that tenancy ends on February 28, 2010. In addition, the applicant in the present matter was forbidden by Court Order in early August 2009, and still in effect, not to be within three blocks of the rental building.

Analysis

I find that as the status of the applicant with respect to the property in question ends on February 28, 2010, and as, in the interim, he is forbidden by Court Order to attend the property, the Order of Possession sought as a remedy is untenable.

In addition, as the named “tenant” in the present dispute is neither a tenant in common nor a co-tenant, I find that he is an “occupant” and that his right to occupancy ends with the rental agreement of the applicant.

Conclusion

Therefore, this application is dismissed as moot without leave to reapply.

February 16, 2010