

DECISION

Dispute Codes OPR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for an order of possession.

The Application was originally reviewed through the Direct Request Procedures but the Dispute Resolution Officer found inadequacies in the tenancy agreement and confusing statements in the landlord's application regarding the reasons for ending the tenancy and as such was adjourned to be reconvened as a participatory hearing.

The participatory hearing was conducted via teleconference and was attended by the landlord and the tenant. The tenancy agreement was signed by two tenants a father and son. The father attended the hearing on behalf both tenants, although the father had never lived in the rental unit, only the son.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following documents into evidence:

- A copy of a residential tenancy agreement which was signed by the tenants on August 31, 2009. The tenancy agreement indicates the tenancy was a month-to-month tenancy and a fixed term tenancy of five months and a one year lease "with both signatures". The tenancy agreement indicates that rent is \$1,500.00 due on the 1st day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 9, 2010 with a stated effective vacancy date of February 19, 2010 for unpaid rent of \$1,500.00 due on January 1, 2010; and
- A copy of a signed Proof of Service for the 10 Day Notice to End Tenancy indicating that the Notice was personally served upon one of the tenants on February 9, 2010 in the presence of a witness.

During the hearing the landlord and the tenant confirmed that the rental unit has been vacated. The tenant (father) confirmed that he had spoken to his son confirms the son has moved out of the rental unit, but he did not have a forwarding address for the son.

Analysis

As the tenant has confirmed the rental unit has been vacated, I find there is no need for an order of possession for the landlord, as the tenant has relinquished possession of the rental unit.

Conclusion

Based on my finding above I dismiss the landlord's application, in its entirety, without leave to reapply.

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: April 16, 2010.

Dispute Resolution Officer