

DECISION

Dispute Codes OPB, FF

Introduction

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

The hearing was conducted via teleconference and was attended by the landlord's agents. The tenant or his attorney as per the tenant's Power of Attorney documents attended the hearing.

The landlord's agent testified that service of the notice of hearing documents was made via registered mail to the rental unit. I am satisfied the tenant and his attorney have been sufficiently served in accordance with Section 71 of the *Residential Tenancy Act* (Act) for the purposes of this hearing.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession resulting from the tenant's notice to end tenancy and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 45, 55, 67, and 72 of the Act.

Background and Evidence

The landlord testified that the tenant had become incapacitated in early 2010 and that his brother was assigned as attorney through a Power of Attorney document dated April 30, 2010. Since that time the tenant was hospitalized and is now living in an senior's facility.

The attorney for the tenant provided a notice to end tenancy dated May 1, 2010 with an effective vacancy date of May 31, 2010. The landlord's agents testified they had provided the attorney with keys so that they could move the tenant's belongings out but instead the tenant has let a third party move into the unit and has failed to vacate as per the notice.

The landlord's agent also testified that the tenant or his attorney have not paid any rents for the months of June and July 2010.

Analysis

I accept the tenant's attorney, as appointed through the Power of Attorney dated April 30, 2010, has the authority to provide the landlord with notice to end tenancy. I find the tenant's notice to end tenancy is in accordance with Section 45 of the *Act*.

Residential Tenancy Policy Guideline # 11 stipulates that if a tenant submits a notice to end tenancy they are not able to unilaterally withdraw the notice, but rather that both parties must agree to a withdrawal.

As such, I find the tenant's notice to end tenancy is effective and the tenancy ended on May 31, 2010. As the landlord has not applied for compensation for any lost rent, I note that the landlord remains at liberty to file a separate Application for Dispute Resolution for any lost income.

Conclusion

I 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 tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$50.00** comprised of the fee paid by the landlord for this application.

This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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 23, 2010.

Dispute Resolution Officer