

DECISION

Dispute Codes OPB, FF, O

Introduction

This hearing dealt with the landlord's applications under the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for breach of the terms of the tenant's fixed term tenancy agreement pursuant to section 55; and
- recovery of their filing fee for this application pursuant to section 72.

The tenant did not attend the hearing. The landlords had a full opportunity to be heard, to present evidence and to make submissions. They testified that they sent the tenant the application for dispute resolution by registered mail on June 14, 2010. They provided a Canada Post tracking number for this mailing and advised that it was returned by Canada Post as undelivered. I am satisfied that the tenant was served with the application for dispute resolution in accordance with the *Act*.

Issues(s) to be Decided

Are the landlords entitled to an Order of Possession and are they entitled to recover their filing fee?

Background and Evidence

The landlord submitted evidence that the tenant signed a six-month fixed term tenancy agreement on December 1, 2009. This agreement ended on May 31, 2010, but the tenant has remained in occupation of the premises. The landlord applied for an Order of Possession on June 11, 2010.

The landlord testified that the tenant contacted them the evening before the dispute resolution hearing. She told them that she had moved out, but did not provide them with keys to the rental premises. She did not provide a phone number or forwarding address.

As the landlords have been unable to enter the premises and uncertain that the tenant has vacated the premises, they requested an Order of Possession to take effect immediately.

The landlords also testified that they continue to hold the tenant's \$725.00 security deposit plus interest from August 20, 2006, when the tenant first moved into these rental premises.

Analysis

Based on the terms of the fixed term tenancy agreement, this tenancy ended on May 31, 2010. It would appear that the tenant has left the rental premises. However, as that remains uncertain, I grant the landlord an Order of Possession to take effect immediately.

As the landlords were successful in their application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application. Using the offsetting provisions of section 72 of the *Act*, I authorize the landlords to retain \$50.00 from the tenant's security deposit that the landlords continue to hold.

Conclusion

I grant the landlord an Order of Possession to take effect on service of the Order to the tenant. I allow the landlords to retain \$50.00 from the tenant's security deposit.

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*.