



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession based on a one month Notice to End Tenancy issued for cause and to recover the filing fee for the Application.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on September 17, 2010, the Tenant did not appear.

An Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession?

Background and Evidence

Based on the testimony of the Agent for the Landlord, I find that the Tenant was served with a one month Notice to End Tenancy for cause on August 31, 2010.

The Notice informed the Tenant that he had ten days to dispute the Notice. The Notice also alleges cause, including repeated late payment of rent.

The Landlord's Agent testified the Tenant has not paid his rent in full, on the first day of the month when rent is due, for the past seven or eight months.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find the Tenant has breached the Act.

The Tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, indicated in the Notice as September 30, 2010. He has failed to move out on the effective date.

Furthermore, I find the Tenant has paid rent late on more than three occasions in the past seven months. Therefore, the Tenant is repeatedly late paying rent and the Notice is valid.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I order that the Landlord may retain \$50.00 for the filing fee for the Application, from the deposit and interest held.

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: October 04, 2010.

Dispute Resolution Officer