



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPC, MNSD, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Cause, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the rental unit, on August 11, 2010. The Agent for the Landlord cited a Canada Post tracking number that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for Cause; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Agent for the Landlord stated that the Tenant was personally served with a One Month Notice to End Tenancy for Cause, which had an effective date of August 31, 2010. She stated that the Tenant advised the building manager at the time of service that he had no intention of vacating the rental unit on August 31, 2010, which motivated the Landlord to file this Application for Dispute Resolution.

The Agent for the Landlord stated that the Tenant vacated the rental unit on September 09, 2010. She withdrew the Landlord's application for an Order of Possession, as the Landlord has regained possession of the rental unit. She withdrew the Landlord's application to retain the security deposit as the Landlord intends to file another

Application for Dispute Resolution claiming for compensation for damages to the rental unit, at which time they will apply to retain the security deposit.

Conclusion

I find that it was reasonable for the Landlord to file this Application for Dispute Resolution, given the Tenant's statement that he would not be vacating by August 30, 2010 and his subsequent failure to vacate the rental unit on that date. I therefore find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

I find that the Landlord has established a monetary claim, in the amount of \$50.00, as compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution and I grant the Landlord a monetary Order for that amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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: September 30, 2010.

Dispute Resolution Officer