



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords to obtain an Order of Possession, and to recover the cost of the filing fee.

Service of the hearing documents, by the landlords to the tenants, was done in accordance with section 89 of the *Act*, and was given in person to the tenants on December 01, 2010.

The landlords appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Are the landlords entitled to an Order of Possession?

Background and Evidence

The landlords testify that this month to month tenancy started on October 01, 2010. Rent is \$775.00 per month and is due on the first day of each month. The tenants paid a security deposit of \$375.00 at the start of their tenancy.

The landlords state that they served the tenants in person with a Two Month Notice to End Tenancy on October 30, 2010. The landlords state the tenant's sought legal advice and proposed a compromise solution. It was agreed between the Parties that the tenants would



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move from the rental unit on November 30, 2010 and they would not pay rent for November as compensation for the Two Month Notice. Both parties signed an agreement to this effect and the landlords have provided a copy of this in evidence.

The landlords state the tenants attempted to find alternative accommodation but were unable to find anything suitable and have remained living in the rental unit. The landlords state the tenants offered to pay rent for December, 2010 but they did not accept this as they did not want to reinstate the tenancy.

The landlords state the tenants told them they would move out a few days ago but they have failed to do so. They state the tenants then told them they would move out as of today but the landlords state there is no evidence that the tenants are preparing to move.

The landlords seek an Order of Possession to take effect as soon as possible and seek to recover the filing fee paid for this application.

Analysis

The tenants did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenants, I have considered the landlords documentary evidence and affirmed testimony before me.

It is my decision that the tenants did sign an agreement to end the tenancy on November 30, 2010 and accepted compensation equivalent to one months' rent due to the Two Months Notice. The tenants have overheld at the rental unit after the agreed move out date and therefore the landlords are entitled to an Order of Possession.



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Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days after service on the tenants**. This order must be served on the Respondents and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlords are entitled to be reimbursed for the **\$50.00** cost of filing this application. I order that the landlord retain this amount from the security deposit and interest of \$375.00 leaving a balance \$325.00 which must be returned to the tenants or otherwise dealt with in compliance with section 38 of the *Act*.

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: December 30, 2010.

Residential Tenancy Branch