



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an Order of possession, and a monetary Order for recovery of the filing fee.

The Landlord provided affirmed testimony that he personally served the Tenant with the Application for Dispute Resolution and Notice of Hearing on October 04, 2011. I find that the Tenant was served the Application and Notice of Hearing in accordance with section 88 of the Residential Tenancy Act (the "Act").

The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of possession and a monetary Order for recovery of the filing fee?

Background and Evidence

The signed tenancy agreement between the parties was submitted in the evidence by the Landlord. The tenancy commenced on March 18, 2011 with rent of \$550.00 per month. The tenancy agreement states that it is a month to month tenancy.

The Landlord provided affirmed testimony that he served the Tenant with the Two Month Notice to End Tenancy for Landlord Use by serving the Tenant, in person, on July 27, 2011. The Landlord provided a copy of the Two Month Notice with the Tenant's signature on it, acknowledging receipt.

This Notice informed the Tenant that he must move out of the rental unit by September 30, 2011. This Notice also explains the Tenant had fifteen days to dispute the Notice. The Landlord testified that the Tenant has refused to move out of the rental unit and is still there as of the date of this hearing. The Landlord testified that the entire house was previously a rental house, however the Landlord and his family moved into the house on July 30, 2011. The Landlord testified that the house is small and before he moved his family into the house he had let the Tenant know of his family's intention to occupy the

entire house including the basement suite, through service of the Two Month Notice on July 27, 2011.

The Landlord is requesting an Order of possession for the rental unit effective immediately as the Tenant did not move out on September 30, 2011 as required by the Notice.

The Landlord has also applied for reimbursement of the \$50.00 filing fee for this proceeding.

Analysis

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

I accept the Landlord's evidence that the Tenant was properly served with the Two Month Notice to End Tenancy Landlord Use in accordance with the Residential Tenancy Act (the "Act") and Policy Guideline.

I have reviewed all documentary evidence and considered the Landlord's testimony and I accept the evidence and testimony that the Landlord requires the rental unit for his own use, and that the Tenant is still in the rental unit as of the date of this hearing.

Based on the foregoing, I find that the Tenant is conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on September 30, 2011, which is Two Months after the effective date of the Notice. Therefore, I find that the Landlord is entitled to an Order of possession.

As the Landlord has succeeded in their Application, I find that the Landlord is entitled to recover the \$50.00 fee for this proceeding.

I find that the Landlord is entitled to monetary Order pursuant to section 67 in the amount of **\$50.00**.

Conclusion

I find that the Landlord is entitled to an Order of possession effective **two days after service** on the Tenant.

I find that the Landlord is entitled to monetary Order pursuant to section 67 against the Tenant in the amount of **\$50.00** comprised of the filing fee.

The Orders accompany the Landlord's copy of this decision. The Orders must be served on the Tenant and may be filed in the Supreme 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: October 28, 2011.

Residential Tenancy Branch