



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for cause and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing in person. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began October 2006. On September 9, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause, the tenant has not filed to dispute this notice:

- been repeatedly late paying rent;
- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- put the landlord's property at significant risk;
- damaged the landlord's property;
- adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- jeopardized a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the unit/site or property/park;

- has not done required repairs of damage to the unit/site;

The landlord testified at the start of the hearing that he believed that the tenant had vacated the rental unit as of November 1, 2011 and that he no longer needed to pursue the application for an order of possession.

The landlord stated that in their previous hearing that the tenant had given the landlord written notice that he would vacated as of October 31, 2011 and that the landlord had made this application to ensure that the tenant did vacate. The landlord also spoke to the tenant yesterday and the tenant advised the landlord that he would be gone as of this date.

Analysis

The landlord has withdrawn his application and is no longer seeking an order of possession on the September 9, 2011 notice to end tenancy for cause as the tenant had vacated the rental unit.

As the landlord has withdrawn their application the landlord is not entitled to recovery of the \$50.00 filing fee.

Conclusion

The landlord's application has been withdrawn with liberty to reapply.

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: November 2, 2011.

Residential Tenancy Branch