



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy and to recover the filing fee.

At the start of the hearing the DRO questioned the Tenant why there was no Notice to End Tenancy included in the evidence package. The Tenant said she brought the Notice to End Tenancy with her when she made the application, but she wasn't told to include the Notice to End Tenancy with the application package. On further questioning the Tenant said she had not submitted the Notice to End Tenancy, but she did have it. The Tenant's application package contained the Application, the Notice of Hearing and a receipt for the filing fee of \$50.00.

Consequently as there is no Notice to End Tenancy in the evidence package it is not possible to determine if the Notice to End Tenancy is valid or not. I find there is a lack of evidence to proceed with the hearing and therefore; I dismiss the Tenant's application with leave to reapply. Further as the Tenant has not been successful in this matter, I order the Tenant to bear the cost of the filing fee of \$50.00 that the Tenant has already paid.

The Landlord said that as the Tenant's application has been unsuccessful they are requesting an Order of Possession with an effective vacancy date of May 30, 2012. The Landlord and Tenant discussed a Mutual Agreement to End the Tenancy on May 30, 2012 and both parties agreed to end the tenancy on May 30, 2012.

Under section 55 of the Act as the Landlord made an oral request for an Order of Possession and the Tenant's application was unsuccessful due to lack of evidence; I grant an Order of Possession to the Landlord with an effective vacancy date of May 30, 2012.

Conclusion

The Tenant's application to cancel the Notice to End Tenancy is dismissed with leave to reapply.

The Landlord is granted an Order of Possession with an effective vacancy date of May 30, 2012.

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*.

Residential Tenancy Branch