



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent.

The landlord submitted documentary evidence that the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on January 8, 2013 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 5th day after it was mailed.

Based on the evidence of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing the landlord's agent testified the tenant has vacated the rental unit and returned the keys. The agent also testified that the tenant has left substantial damage and a need for significant cleaning but that the tenant has informed him he will have someone come by to pay the rent for February 2013. As of the time of the hearing the landlord has not received rent although it is due on the date of the hearing.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for the end of a fixed term tenancy and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 44, 55, 67, and 72 of the *Act*.

Analysis

As the tenant has vacated the rental unit and returned his keys, I find the landlord now has possession of the rental unit and no longer requires an order of possession. I dismiss the landlord's Application.

However, from the tenant's actions of leaving the rental unit early and leaving the unit in the condition it is, based on the landlord's agent's undisputed testimony, I find it reasonable to hold the tenant responsible for the fee the landlord paid for her Application for Dispute Resolution.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** for the fee paid by the landlord for this application. I order the landlord may deduct this amount from the security deposit held in the amount of \$625.00 in satisfaction of this claim.

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: January 31, 2013



Residential Tenancy Branch

RTB-136

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.rto.gov.bc.ca) has information about:

- How and when to enforce an order of possession:
Fact Sheet RTB-103: *Landlord: Enforcing an Order of Possession*
- How and when to enforce a monetary order:
Fact Sheet RTB-108: *Enforcing a Monetary Order*
- How and when to have a decision or order corrected:
Fact Sheet RTB-111: *Correction of a Decision or Order*
- How and when to have a decision or order clarified:
Fact Sheet RTB-141: *Clarification of a Decision or Order*
- How and when to apply for the review of a decision:
Fact Sheet RTB-100: *Review Consideration of a Decision or Order*
(Please Note: Legislated deadlines apply)

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.rto.gov.bc.ca