



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application in which the landlord has applied under the section 'Other issues' for an Order of Possession. The landlord has also applied to recover the filing fee from the tenants for the cost of this application. At the outset of the hearing the landlord's agent states that they withdraw their request to recover the filing fee.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, sent via registered mail on December 14, 2012. Mail receipt numbers were provided in the landlord's documentary evidence. The tenants are deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent appeared, gave sworn testimony, was provided the opportunity to present 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

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord's agent testifies that this tenancy started on October 01, 2010. This is now a month to month tenancy and rent for this unit is \$1,100.00 per month due on the 1st day of each month.

The landlord's agent testifies that the tenants had been in arrears with their rent, in 2012 and the landlord was successful in obtaining an Order of Possession. However as the tenants cleared the outstanding rent the landlord reinstated the tenancy but the parties both signed a mutual agreement to end the tenancy effective on January 31, 2013.

The landlord's agent testifies that the tenants have not paid rent for January, 2013 and have avoided all communication with the landlord's agent. The landlord's agent requests an Order of Possession effective on January 31, 2013 to serve upon the tenants in the event the tenants fail to vacate the rental unit on that date. The landlord has provided a copy of the tenancy agreement and the mutual agreement to end tenancy in evidence.

Analysis

When a tenant and landlord sign a mutual agreement to end tenancy in accordance with the *Residential Tenancy Act (Act)* then the tenants must vacate the rental unit on the agreed upon date. The tenants have not indicated to the landlords that they are preparing to vacate on this date. Therefore I have issued an Order of Possession to the landlord pursuant to s. 55 of the *Act* to serve upon the tenants in the event the tenants fail to move by January 31, 2013.

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.

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 17, 2013

Residential Tenancy Branch

