



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 for other issues concerning an Order of Possession because the tenant and landlord signed a mutual agreement to end the tenancy and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, and was served to the tenant by the landlord's agent in person on January 02, 2013.

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 tenant, 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 month to month tenancy started on November 01, 2012. Rent for this unit is \$300.00 per month and is due on the 1st day of each month. The tenant paid a security deposit of \$150.00 on November 01, 2012.

The landlord's agent testifies that before the start of the tenancy when the parties signed the tenancy agreement, the parties also signed a mutual agreement to end the tenancy on December 31, 2012. The landlord's agent testifies that he was not aware that he could have just made the tenancy agreement a fixed term tenancy for two months without the opportunity to extend the tenancy to a month to month tenancy.

The landlord's agent testifies that the tenant has failed to move from the rental unit as agreed on the mutual agreement to end tenancy and the landlord therefore seeks an Order of Possession effective on February 28, 2013.

The landlord also seeks to recover the \$50.00 filing fee paid for this application from the tenant.

Analysis

I have considered the landlords application and reviewed the tenancy agreement and the mutual agreement to end tenancy. Both documents have been signed by both the landlord's agent and the tenant. Consequently, the tenant was required, in accordance with this mutual agreement, to move from the rental unit on December 31, 2012. As the tenant has failed to abide by the mutual agreement to end tenancy I find the landlord is entitled to an Order of Possession.

I further find the landlord is entitled to recover the \$50.00 filing fee from the tenant and the landlord may deduct this from the tenant's security deposit of \$150.00 leaving a

balance of \$100.00 which must either be returned to the tenant or dealt with in accordance with s. 38 of the *Residential Tenancy Act*.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective no later than 1.00 p.m. on February 28, 2013. This order must be served on the Respondent 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: February 13, 2013

Residential Tenancy Branch

