



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding STERLING MANAGEMENT SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing was scheduled to deal with a landlord's application for an early end of tenancy and Order of Possession under section 56 of the Act. The tenant did not appear at the hearing. The landlord testified that the Application for Dispute Resolution and Notice of Hearing were served to the tenant in person, in the driveway of the rental unit, on November 14, 2013 in the presence of a witness. I was satisfied the tenant was served with the hearing documents and I continued to hear from the landlord without the tenant present.

The landlord stated the tenant has since moved out of the rental unit and that an Order of Possession is no longer required. As such, I do not provide one with this decision.

The landlord had applied for recovery of the filing fee paid for this Application for Dispute Resolution. Accordingly, I proceeded to consider whether the landlord's Application for Dispute Resolution had merit.

Issue(s) to be Decided

Did the landlord's Application for Dispute Resolution have merit and if so, should the tenant be ordered to compensate the landlord for the filing fee?

Background and Evidence

The landlord had submitted in the details of dispute, and testified during the hearing, that the tenant had threatened the landlord's agent and the property owner with a baseball bat to the head if the landlord's agent or owner came on the property again. The RCMP were called by the landlord and attended the property. At the time, the tenant had agreed to vacate the property by November 16, 2013; however, the tenant then served the landlord with a Tenant's Application for Dispute Resolution indicating he was going to dispute a Notice to End Tenancy and the dispute would not be heard until

December 20, 2013. Concerned the tenant would not vacate by November 16, 2013 as agreed the landlord filed this Application for Dispute Resolution seeking an early end of tenancy and Order of Possession based upon the tenant's threats of physical harm against the landlord.

The landlord provided a file number for the Tenant's Application for Dispute Resolution which I confirmed involves a disputed Notice to End Tenancy and is set for hearing on December 20, 2013, as stated by the landlord.

The landlord confirmed that an authorization to deduct the cost of the filing fee from the security deposit would be sufficient.

Analysis

Based upon the undisputed submissions of the landlord, I find the landlord's Application for Dispute Resolution was with merit and it reasonably likely that the landlord would have succeeded had the tenant not already vacated the rental unit by the time this matter was heard.

In light of the above, grant the landlord's request and I authorize the landlord to deduct \$50.00 from the tenant's security deposit to recover the filing fee paid for this Application for Dispute Resolution from the tenant.

Conclusion

The tenant has already vacated the rental unit and an Order of Possession is no longer required. The landlord has been authorized to deduct \$50.00 from the tenant's security deposit.

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 21, 2013

Residential Tenancy Branch

