



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, OPC

Introduction

This is an application for an Order of Possession, and a request for recovery of the \$50.00 filing fee.

The applicant testified that the respondent(s) were served with notice of the hearing by posting the documents on the doors of the respective respondents however the respondent(s) did not join the conference call at the time that was set up for the hearing.

The Male respondent came on the line at approximately 9:11 a.m., at the same time as the applicant was leaving the conference, and after the hearing had already concluded.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) were properly served with notice of the hearing and therefore knew what time the hearing was to start.

As the hearing had already concluded before the respondent came on the line, no testimony was taken from the respondent, and he was advised that the hearing had concluded and a decision would be coming in the mail.

All testimony from the applicant was taken under affirmation.

Issue(s) to be Decided

The applicant had requested an Order of Possession, however at the hearing applicant withdrew her request for an Order of Possession as the tenants had vacated and return possession of the unit to her.

The remaining issue therefore is whether or not to allow the request for recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- This tenancy began on August 1, 2009 with the monthly rent of \$1440.00.
- On August 23, 2013 she hand-delivered a Notice to End Tenancy to the tenants.
- The tenants did not file any dispute of that notice however they also failed to comply with the notice and therefore on November 20, 2013 she applied for dispute resolution.
- The tenant subsequently vacated the rental unit on December 9, 2013, however she is requesting that they pay her filing fee as they did not vacate until after she applied for dispute resolution.

Analysis

It's my finding that since the tenants did not vacate the rental unit until after the landlord applied for dispute resolution, I allow the request for recovery of the filing fee.

Conclusion

As stated above the landlord has withdrawn the request for an Order of Possession.

I have issued a Monetary Order in the amount of \$50.00 to cover the cost of the landlord's filing fee.

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 15, 2014

Residential Tenancy Branch

