



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession pursuant to a Notice to End Tenancy for Cause - Section 47; and
2. An Order for the recovery of the filing fee – Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The tenancy began on February 4, 2014. Rent in the amount of \$625.00 is payable in advance on the first day of each month. No security deposit was collected by the Landlord. On February 6, 2014, the Landlord served the Tenant with a 1 Month Notice to End Tenancy for Cause (the “Notice”) in person. The Notice has an effective date of March 31, 2014. The Tenant has not filed an application to dispute the Notice and has not moved out of the unit.

The Tenant agrees that he received both pages of the Notice on February 6, 2014 and states that neither he or his roommate are capable of reading and understanding the

Notice and that although the Tenant called the Residential Tenancy Branch (the "RTB") for information he was not able to understand them either so he did not know that he had to make an application for dispute resolution in order to have the validity of the Notice disputed. The Tenant states that he was only told by the RTB to attend the hearing. The Tenant states that he will not move out of the unit at any event.

Analysis

Section 47 of the Act requires that upon receipt of a Notice to end Tenancy for Cause, the tenant may, within ten days of receiving the notice, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the Notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the unit by that date. Although the Tenant states that he is unable to comprehend the Notice or information from the RTB, given the Tenant's ability to understand the proceedings at the hearing and the Tenant's ability to provide cogent evidence and argument, I find that this evidence is not credible.

As the Tenant has not filed an application to dispute the notice, I find that the Landlord is entitled to an **Order of Possession effective 1:00 p.m. March 31, 2014**. Given the Tenant's stated intention to remain in the unit, I find that the Landlord was required to make the application in order to obtain possession of the unit and is therefore entitled to recovery of the \$50.00 filing fee.

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Conclusion

I grant an Order of Possession effective 1:00 p.m. March 31, 2014 to the Landlord.

I grant the Landlord an order under Section 67 of the Act for **\$50.00**. If necessary, this order may be filed in the Small Claims 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: March 11, 2014

Residential Tenancy Branch

