



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order of Possession pursuant to Sections 47, and 55 for cause; and
- b) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Both parties attended and the tenant agreed he received the Notice to end Tenancy dated June 30, 2014 posted on his door. He said he did not receive the Application for Dispute Resolution by registered mail; it was verified online that the Application was delivered by registered mail on August 15, 2014 but it was refused. I find that the tenant is deemed to be served with the Application according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated June 30, 2014 for cause. Has the landlord proved on the balance of probabilities that there is good cause to end this tenancy and obtain an Order of Possession? Is the landlord now entitled to recover the filing fee?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises in August 2012, a security deposit of \$415 was paid and rent is currently \$830 a month. The landlord gave evidence that the tenant unreasonably disturbs the peaceful enjoyment of other tenants. He said the excessive noise at night started about 6-7 months ago, the tenant has promised to keep it quiet at night but has not and the landlord has already lost one tenant over this issue. Two complaint letters from neighbours were provided in evidence.

The tenant said he has recently filed an Application against the landlord. He said he works 12 hours a day from 12 noon to midnight so is mostly not at home. However, he did say that he plays his TV and walks around to cook when he comes home. He mentioned two instances with his girlfriend, one where the police attended and would not allow him back into his home for a couple of weeks.

The landlord said that he would request the Order of Possession effective October 18, 2014 to allow the tenant some time to move provided the tenant paid him rent for October. The tenant agreed to pay the rent.

In evidence are complaint letters, the Notice to End Tenancy, proof of service and the tenancy agreement. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. The Tenant did not make application within the time limits pursuant to Section 47 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective October 18, 2014 as requested by the parties.

The landlord requested no monetary order for rent arrears. I give him leave to reapply for this if necessary.

Conclusion:

I find the landlord is entitled to an Order of Possession effective October 18, 2014. I find the landlord is entitled to recover filing fees paid for this application and I authorize him to deduct \$50 from the tenant's security deposit to recover this. This will leave a balance of \$365 in trust for the 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: October 09, 2014