



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNDC, FF

Introduction

This was a hearing with respect to the landlord's application for an order for possession, a monetary order and recovery of the filing fee for the application. The hearing was conducted by conference call. The landlord's agent called in and participated in the hearing. The tenant did not attend, although he was served with the application and Notice of Hearing by registered mail.

Issue(s) to be Decided

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is a basement suite in the landlord's house in Surrey. On February 27, 2015 the landlord personally served the tenant with a two month Notice to End Tenancy for landlord's use dated February 24, 2015. The Notice to End Tenancy required the tenant to move out of the rental unit by April 30, 2015.

The tenant did not file an application for dispute resolution to dispute the Notice to End Tenancy. The landlord's agent testified that there was some sign that the tenant may have moved from the rental unit, but the landlord had not determined as of the date of the hearing, whether or not the tenant had fully moved out of the rental unit. The landlord's agent requested an order for possession because it was uncertain whether the tenant has moved.

Analysis

The tenant was personally served with the two month Notice to End Tenancy on February 27, 2015. The tenant had 15 days within which to apply to dispute the Notice to End Tenancy. Section 49 (9) of the *Residential Tenancy Act* provides that a tenant who does not apply to dispute a Notice within the time provided is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice, which was April 30, 2015. The tenant did not apply to dispute the Notice to End Tenancy and I find that the landlord is entitled to an order for possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that court.

The landlord requested a monetary order in the amount of \$82.95 and payment of the filing fee for the application. I do not have evidence from the landlord to establish the claim for a monetary award and because it is not clear whether or not the tenant has moved out pursuant to the Notice to End Tenancy, I decline to award the filing fee for this application. At the hearing the landlord's agent referred to an amended application for dispute resolution. There was no indication on the file that the application had been amended and on review, I discovered that documents were faxed to the Residential Tenancy Branch on April 15, 2015 and received as evidence. Included in the documents was a purported amendment to the application for dispute resolution. I find that the application has not been properly amended and I have disregarded the amended claim.

Conclusion

The landlord has been granted an order for possession; all other claims in the application are dismissed without leave to reapply.

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: May 06, 2015

Residential Tenancy Branch

