



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPB, OPQ, FF

Introduction and Preliminary Matter

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act ("Act"). The landlord applied for an order of possession for the rental unit pursuant to a 1 Month Notice to End Tenancy for Cause, including a breach of an agreement with the landlord, ("1 Month Notice") and a 2 Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit ("2 Month Notice"), and for recovery of the filing fee paid for this application. The landlord submitted copies of the Notices.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord submitted that the tenant was served with their application for dispute resolution and notice of hearing by registered mail on May 12, 2015.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

At the beginning of the hearing, the landlord confirmed that the tenant vacated the rental unit at the end of May 2015, and that as a result, an order of possession for the rental unit was no longer being requested. I have therefore amended the landlord's application to exclude a request for an order of possession for the rental unit.

Further, the landlord confirmed that they were still seeking recovery of the filing fee paid for this application.

Analysis and Conclusion

As to the landlord's request for recovery of their filing fee, I note that the effective end of tenancy date listed on both Notices issued to the tenant was May 31, 2015.

There was no evidence that the tenant had filed an application in dispute of either of the Notices, and as the landlord submitted that the tenant vacated at the end of May 2015, it appears that the tenant chose to accept the Notices and vacate by the effective end of tenancy date.

As such, I find that it was not necessary for the landlord to file their application on May 12, 2015, as the application was premature at that point due to the effective end of tenancy on May 31, 2015, and therefore, I decline to award the landlord recovery of their filing fee.

Due to the above, I dismiss the landlord's application seeking recovery of the 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: June 23, 2015

Residential Tenancy Branch

