



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB O FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on May 26, 2015 seeking to obtain an Order of Possession for Breach of Agreement, for other reasons and to recover the cost of the filing fee from the Tenant for this application. The Landlord wrote the following in the Details of the Dispute:

Request order of possession to end tenancy on August 31, 2015 as per the mutual agreement (see attached).

[Reproduced as written]

The hearing was conducted via teleconference and was attended by the Landlord.

Issue(s) to be Decided

Has the Landlord regained possession of the rental unit?

Background and Evidence

At the outset of this proceeding the Landlord submitted that the Tenant vacated the rental unit by June 30, 2015. He stated that he had previously served the Tenant with an eviction notice and later entered into a mutual agreement to allow the Tenant time to find another place to move to. The Landlord argued that the Tenant vacated the rental on the effective date of the eviction notice despite entering into a mutual agreement for a later date. The Landlord confirmed he regained possession of the rental unit and no longer requires an Order of Possession.

Analysis

The Landlord has regained possession of the rental unit. Therefore, the Landlord's application is now moot.

Section 72(1) of the Act stipulates that the director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] or 79 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.

In this case I find the Tenant vacated the rental unit after being served Notice of the Landlord's application as he realized the Landlord was proceeding with the eviction. Therefore, I grant the Landlord's request to recover the **\$50.00** filing fee from the Tenant, pursuant to section 72(1) of the Act.

Conclusion

The Landlord's application is now moot as the Landlord regained possession when the Tenant moved out June 30, 2015. The request for an Order of Possession is dismissed as it is no longer required and the Landlord has been awarded recovery of the \$50.00 filing fee.

The Landlord may deduct the one time award of **\$50.00** from the Tenant's security deposit as full 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: July 13, 2015

Residential Tenancy Branch

