



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, OPC, MND, FF

Introduction

This hearing was convened in response to applications by the tenant and the landlord.

The tenant's application is seeking orders as follows:

1. To allow a tenant more time to make an application to cancel a Notice to End Tenancy; and
2. To cancel a 1 Month Notice to End Tenancy for Cause (the "Notice), issued on June 1, 2015.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for damages; and
3. To recover the cost of filing the application.

The landlord appeared.

Tenant's application

This matter was set for hearing by telephone conference call at 9:30 A.M on August 7, 2015. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenant did not attend the hearing by 9:40 A.M, and the landlord appeared and was ready to proceed, I dismiss the tenant's application without leave to reapply.

Landlord's application

Although served with the Application for Dispute Resolution and Notice of Hearing in person on June 12, 2015, which was witnessed, the tenant did not appear. Further, the tenant confirmed service of the landlord's application, as the landlord's file number was

written in the details of dispute on the tenant's application. I find that the tenant has been duly served in accordance with the Act.

Issues to be decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for damages?

Background and Evidence

At the outset of the hearing the landlord withdraws their claim for a monetary order for damages.

Since the tenant's application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

I have dismissed the tenant's application; I find that the landlord is entitled to an order of possession.

As the corrected effective date of the Notice has passed, I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, 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 **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

As the landlord application for an order of possession was successful, I find the landlord is entitled to recover the filing fee from the tenant. The landlord is authorized to deduct the amount of \$50.00 from the tenant's security deposit if full satisfaction of this award.

Conclusion

The tenant's application is dismissed.

The landlord has leave to reapply for a monetary order for damages. The landlord is granted an order of possession. The landlord is authorized to deduct \$50.00 from the tenant's security deposit to recover the cost of the filing fee from the tenant.

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: August 10, 2015

Residential Tenancy Branch

