



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPB, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for cause and for breach of an agreement with the landlord, pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

The landlord and his agent, RB, and the two tenants attended the hearing and were each given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord confirmed that his wife and agent, RB, had authority to speak on his behalf at this hearing as he was calling from the hospital and in ill health at the time. This hearing lasted approximately 39 minutes in order to allow both parties, particularly the tenants, the opportunity to present full submissions and to clarify information with both parties.

At the outset of the hearing, the landlord's agent testified that the landlord wished to withdraw his entire application, including for the filing fee. The landlord's agent confirmed that the tenants vacated the rental unit on September 30, 2015, and that the landlord no longer required an order of possession.

The landlord's agent confirmed that the landlord also wished to seek monetary orders against the tenant at this hearing, but the landlord did not apply for any monetary orders, except to recover the filing fee for his application. The landlord simply served written evidence indicating that he wished to seek monetary orders, without amending his application to ask for certain monetary orders, at the Residential Tenancy Branch, as he is are required to do so. Accordingly, I advised the landlord's agent that the landlord would be required to file a new application and pay a new filing fee, if he wished to seek any monetary orders against the tenants.

This matter was originally scheduled to be heard together with the tenants' application, the file number of which appears on the front page of this decision. The tenants cancelled their hearing on October 15, 2015, the day before this hearing. Accordingly, the tenants' application was not heard at this hearing as it was already cancelled prior to the hearing. The tenants testified at this hearing that they wished to file a new application at a later date in order to amend their monetary claim originally sought. The landlord was notified of the cancellation at this hearing. The tenants confirmed that they are aware that they are required to file a new application, pay a new filing fee, and file and serve any relevant evidence for their new application.

I advised both parties that the documentary evidence from the landlord's current application and the tenant's cancelled file, would not be transferred to future applications, should the parties choose to file these applications. I advised both parties that they would be required to serve and file new evidence for their new applications. Both parties confirmed their understanding of the above information.

Conclusion

The landlord's entire application was withdrawn. The landlord must bear the cost of the \$50.00 filing fee for his Application.

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 16, 2015

Residential Tenancy Branch

