



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bayside Property Services Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O, FF

Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession, and requesting recovery of their \$50.00 filing fee

The applicant(s) testified that the respondent(s) were both served with notice of the hearing by registered mail that was mailed on October 14, 2015; however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) have both been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

The applicant's testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not the landlord has established the right to an Order of Possession of the rental property and recovery of the filing fee.

Background and Evidence

The landlords testified that on January 13, 2015 the applicants entered into a tenancy agreement with the respondent above whose initials are D.J.K. as the only tenant in the tenancy agreement.

The landlords further testified that in September 2015 the tenant D.J.K served the landlord's with the Notice to End Tenancy stating that he would be vacating the rental unit on October 1, 2015.

The landlord further testified that on September 30, 2015 when they went to do a moveout inspection at the rental property they found that the tenant D.J.K had already vacated the rental unit, however the above respondent who's initials are L.T.F., who was not on the tenancy agreement, was living in the rental unit and refused to vacate.

The landlords further testified that L.T.F. is not their tenant, and although he may have been a roommate of the tenant, it was the tenant's responsibility to ensure that vacant possession was given at the end of the tenancy, and since it was not, they are requesting an Order of Possession for as soon as possible, and recovery of their filing fee.

Analysis

After reviewing the documentary evidence supplied by the landlords along with the landlords testimony it is my finding that respondent L.T.F. was never a part of the tenancy agreement for this rental unit and therefore he should have vacated when the actual tenant D.J.K. vacated the rental unit at the end of September 2015.

Section 45 of the Residential Tenancy Act states:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

In this case tenant D.J.K. did give a valid one month Notice to End Tenancy and therefore it was incumbent upon him to ensure that vacant possession of the rental unit was given to the landlord at the end of the tenancy.

Sections 55(2) & 55(3) of the Residential Tenancy Act state:

55(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(a) a notice to end the tenancy has been given by the tenant;

55(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

It is my decision therefore that I will grant the landlords request for an Order of Possession for as soon as possible, and for recovery of their \$50.00 filing fee.

I have left both respondents names on the Order of Possession, to ensure that vacant possession is given to the landlords. I have however removed respondent L.T.F. from the monetary order as he was not in a landlord-tenant relationship with the applicants.

Conclusion

Pursuant to section 55 of the Residential Tenancy Act, I have issued an Order of Possession that is enforceable two days after service on the respondents.

Pursuant to section 72 of the Residential Tenancy Act, I have issued a monetary order in the amount of \$50.00 for 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: December 08, 2015

Residential Tenancy Branch

