



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CORNERSTONE PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF (Landlord's Application)
 MT, CNC (Tenant's Application)

Introduction

This hearing convened as a result of cross applications filed under the *Residential Tenancy Act* (the "Act"). In the Landlord's Application for Dispute Resolution filed March 3, 2016, they sought an Order of Possession based on a Notice to End Tenancy for Cause issued on February 19, 2016 and to recover the filing fee.

The Landlord's agents' J.M. and D.K. attended the teleconference hearing who were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the Tenant did not attend the hearing, service of the Landlord's Application and Notice of a Dispute Resolution Hearing (the "Application Materials") was considered. D.K. testified that she personally served the Application Materials the Tenant by *. I accept the Landlord's undisputed testimony that * and that s/he was sufficiently served as of that date under the *Act* as a result.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Should the Landlord recover the filing fee?

Background and Evidence

The Landlord provided a copy of the residential tenancy agreement in evidence and which indicated the following: A month to month tenancy agreement between the parties began on or about *and ended on * when the Tenant vacated the rental unit. At the time of the hearing, monthly rent in the amount \$*.00 was due on the first day of each month

during the tenancy. The Tenant paid a \$*.00 security deposit at the start of the tenancy which the Landlord continues to hold.

The Landlord issued the Notice on February 19, 2016. A copy of the Notice was entered in evidence and which indicated tThe Notice has an effective vacancy date of March 31, 2016.

D.K. testified that she personally served the Notice on the Tenant on February 19, 2016. A copy of the Proof of Service—Notice to End Tenancy was also provided in evidence. The Notice informs the Tenant that he had ten days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The Landlord applied for dispute resolution on March 3, 2016.

D.K provided undisputed testimony as to the reasons for issuing the Notice and stated that the Tenant breached a material term of the tenancy agreement in that the condition of his rental unit was unacceptable and posed a possible health and fire hazard to the building and other residents. Also introduced in evidence was a letter from the Landlord to the Tenant dated February 10, 2016 wherein these concerns are raised and the Tenant is given a deadline to comply with the Landlord's demands.

Although the Tenant applied for dispute resolution on February 24, 2016, he failed to attend the hearing to dispute the Landlord's claims.

The Landlord also provided a Monetary Order Worksheet and Tenant Ledger indicating that rent was outstanding. As the Landlord failed to make an application for a Monetary Order (save and except for their request to recover the filing fee pursuant to section 72 if the *Act*), this evidence was not relevant to the application before me. The Landlord is at liberty to make a further application for monetary compensation.

Analysis

Based on the documentary evidence, the undisputed testimony of the Landlord's agents, and on the balance of probabilities, I find the following.

The Tenant did not attend the hearing to dispute the Notice and his application is dismissed. Accordingly, he is conclusively presumed, pursuant to section 47(5) to accept the end of the tenancy and must vacate the rental unit. The Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act* which will be effective at

1:00 p.m., two days after service. This Order must be served on the Tenant and may be filed in the Supreme Court and enforced as an Order of that court.

As the Landlord's application had merit, I grant the Landlord the recovery of the \$100.00 filing fee. I grant the Landlord a monetary Order pursuant to section 67 of the *Act* for the \$100.00 filing fee. This Order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that court.

Conclusion

The Landlord is entitled to an Order of Possession and a monetary Order under sections 67 and 72 of the *Act* for recovery of the \$100.00 filing fee.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 14, 2016

Residential Tenancy Branch