



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF, O

Introduction

This was a hearing with respect to the landlord's application for an order of possession. The hearing was conducted by conference call. The landlord and the tenant called in and participated in the hearing. There has been a previous dispute resolution proceeding with respect this tenancy. The file number for the prior proceeding is set out on the cover page of this decision.

Background and Evidence

On May 13, 2016 the tenant's application to cancel a one month Notice to End Tenancy was heard by an arbitrator. In her decision dated May 17, 2016 she dismissed the tenant's application to cancel the Notice to End Tenancy and granted the landlord an order of possession effective May 31, 2016.

When the tenant made his application for dispute resolution he misspelled the landlord's name in the application. The May 17th decision and orders issued by the arbitrator recorded the landlord's name as it was spelled in the tenant's application.

The tenant applied for review consideration of the May 17th decision and order. In a Review Consideration Decision dated June 6, 2016, the tenant's application for Review Consideration was dismissed and the original decision and order was confirmed.

The landlord has attempted to enforce the order of possession dated May 17, 2016, but he has been unable to do so because of the misspelling of his name in the decision and order. Because the misspelling in the May 17th decision and order was not a typographical error on the part of the arbitrator, it cannot be corrected. The landlord has therefore commenced his own application to obtain an enforceable order which is confirmatory of the May 17th decision. The landlord's position is that the issues have been decided and the matter is now res judicata, but tenant has refused to move out of

the rental unit. He is not paying rent and the landlord is entitled to have an enforceable order of possession.

At the hearing the tenant said that his claim was not properly heard and he has new evidence to present in support of his original application. The tenant did not submit any documents or evidence with respect to this application.

Analysis

The tenant's application to cancel the one month Notice to End Tenancy has been dismissed, as has his application for review consideration of that decision. The matter is *res judicata* and there is no basis for me to rehear the matter. The landlord, however, may not be denied an effective remedy because the tenant did not name him properly in the original application. The landlord is therefore entitled to an immediate order of possession. This order may be registered in the Small Claims Court and enforced as an order of that court.

Conclusion

The landlord has been granted an order of possession pursuant to the May 17, 2016 decision in the proceeding noted on the cover page of this decision.

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: June 29, 2016

Residential Tenancy Branch