



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The matter was subsequently referred to a participatory hearing, held on October 4, 2017. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- an order of possession based on a One Month Notice to End Tenancy for Cause; and,
- to recover the filing fee from the tenant for the cost of this application.

The Tenant did not attend the hearing. The Landlord's Agent provided affirmed testimony at the hearing and stated that the Landlord no longer requires an order of possession because the tenant vacated the unit. As such, the Landlord's application for an order of possession is withdrawn and I make no findings on the merits of the issue.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. However, the basis for the application has been withdrawn, and is no longer required. Generally, the filing fee may be awarded to the party who was substantially successful in their application, once the merits of the case have been assessed. However, I made no findings on the merits of the case. As such, I find there is an insufficient basis to order the tenant to repay this amount.

The landlord applied to amend the application on September 15th and 18th in order to recover money from the tenant for damage to the rental unit. However, as discussed during the hearing, these amendments were not properly served to the tenant, as they were delivered to the rental unit, which the tenant had already vacated. As such, I dismiss these amendments with leave to reapply.

Conclusion

The landlord's application for an order of possession has been withdrawn.

I dismiss the landlord's application to recover the filing fee from the tenant. I also dismiss the landlord's application for an amendment, with leave to reapply.

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 04, 2017

Residential Tenancy Branch