



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction:

Only the landlord and gave sworn testimony. She said she served the Application for Dispute Resolution by registered mail. I find that the tenant was legally served with the documents according to section 89 of the Act. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order of Possession pursuant to Sections 44, and 55 as the tenant has breached a term of the fixed term tenancy agreement by not vacating as agreed; and
- b) An order to recover the filing fee pursuant to Section 72.

Issue(s) to be Decided:

Is the landlord entitled to an Order of Possession?

Background and Evidence:

Only the landlord attended although the tenant was served with the application/notice of hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises in September 1, 2015 on a fixed term lease expiring September 1, 2017, a security deposit of \$700 and a pet deposit of \$700 were paid and rent is \$1500 a month.

In evidence is a copy of the fixed term lease. The boxes in item 2 agreeing to vacant possession are not initialled by either party.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is not entitled to an Order of Possession. As discussed, she said she understood the implications of the new legislation that she could not require vacant

possession except in very limited circumstances. I directed her to Policy Guideline 30 of the Residential Policy Guidelines which explains the new legislation further.

She said the tenant is repeatedly late in paying rent. I advised her of the provisions of section 47 of the Act which states a tenancy can end for that cause. She said she may pursue that option.

Conclusion:

I find dismiss the application of the landlord and find her not entitled to recover filing fees paid for this application due to lack of success..

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: February 22, 2018

Residential Tenancy Branch