



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On January 8, 2019, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking recovery of the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenants did not attend the hearing. All in attendance provided a solemn affirmation.

The Landlord advised that the Tenants were each served a Notice of Hearing package and evidence by registered mail on January 10, 2019 (the registered mail tracking numbers are listed on the first page of this decision). Based on the undisputed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenants were deemed to have received the Notice of Hearing packages and Landlord's evidence five days after it was mailed.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an early end to this tenancy and an Order of Possession?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord stated that the tenancy started on October 1, 2018 and ended when the Tenants gave up vacant possession of the rental unit on February 1, 2019. Rent was established at \$2,300.00 per month, due on the first of each month. A security deposit of \$1,150.00 was also paid.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

As the Tenants have given up vacant possession of the rental unit prior to this hearing, it is not necessary to award an Order of Possession.

As the Landlord was successful in her claim, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to retain a portion of the security deposit in satisfaction of the amount awarded, if she so chooses.

Conclusion

As the Tenants gave up vacant possession of the rental unit prior to the hearing, an Order of Possession was not awarded. However, the Landlord is permitted to recover the filing fee by retaining this amount from the security deposit.

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 7, 2019

Residential Tenancy Branch