



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDL-S, FFL

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of possession - Section 55;
2. A Monetary Order for damages to the unit - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to damages and retention of the security deposit?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The Landlord seeks an order of possession on the basis of a one month notice to end tenancy for cause dated and served December 27, 2019 (the “Notice”). The Landlord confirms that it received the Tenant’s evidence package containing a previous decision dated March 9, 2020. The Landlord confirms that the notice to end tenancy that was the subject of the previous decision is the Notice that the Landlord is relying on for its present claim for an order of possession. It is noted that the previous decision finds that

the Notice was invalid, and the Notice was cancelled. The Landlord confirms that the Tenant is still residing in the unit.

Analysis

Section 77(3) of the Act provides that a decision or an order of the director is final and binding on the parties. As the previous decision dated March 9, 2020 cancels the Notice, I find that the Landlord cannot rely on this Notice to obtain an order of possession. I dismiss the claim for an order of possession. As the tenancy had not ended, I dismiss the claim for damages to the unit and retention of the security deposit with leave to reapply. As the Landlord's claims have met with no success, I dismiss the claim for recovery of the filing fee.

Conclusion

The claim for an order of possession and recovery of the filing fee is dismissed. The claim for damages to the unit is dismissed 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 Act.

Dated: July 14, 2020

Residential Tenancy Branch