



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **ET, FFL**

Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order to end the tenancy early due to circumstances where there is an imminent danger to the health, safety, or security of a landlord, tenant or the landlord’s property pursuant to section 56; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The landlord and both tenants attended the hearing. As all parties were present, service of documents was confirmed. The tenants acknowledged service of the landlord’s Notice of Dispute Resolution Proceedings and stated they had no concerns with timely service of documents.

Preliminary Issue

At the commencement of the hearing, the parties advised me that the tenant JH and the landlord together signed a mutual agreement to end tenancy [form RTB-8], ending the tenancy. The co-tenant AH did not sign the form and did not vacate the rental unit at 1:00 p.m. on July 26, 2022, the effective date stated on the agreement.

Settlement Reached

Pursuant to section 63 of the Act, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved the following resolution of their dispute.

1. The tenancy with the tenant JH ended pursuant to a signed mutual agreement to end tenancy, effective July 26, 2022.

2. This tenancy with the co-tenant, AT will end at 10:00 a.m. on August 16, 2022, by which time the tenant, AT and any other occupant will have vacated the rental unit.
3. Any belongings of the tenants left behind at the rental unit is considered abandoned and the landlord may dispose of them.
4. The parties will attend the rental unit at 12:00 noon on Thursday, August 18, 2022, or any other time that is agreeable to the parties to conduct a condition inspection report. The landlord will send a copy of the condition inspection report to the tenant JH via email.
5. The parties are put on notice that the landlord has not yet received the tenants' forwarding addresses. The landlord is required to comply with section 38 of the Act upon receipt of the tenants' forwarding addresses. The landlord is willing to accept service of the forwarding addresses via email.

All parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settles this aspect of this dispute. As the parties resolved this issue by agreement, I make no findings of fact or law with respect to it.

The parties agreed that the issue of who shall pay the filing fee would be determined by the director.

Issue(s) to be Decided

Should the landlord's filing fee be recovered from the tenants?

Background and Evidence

The landlord submits that at the time he filed the application, there was a reasonable ground to seek an early end to the tenancy. There were safety issues for the occupants of the rental property and the lock to a common area had been changed. The landlord alleges the tenant threatened to shred other occupants' mail and the landlord alleges the tenant AT assaulted him. The landlord needed to file the application to end the tenancy due to the imminent harm to the remaining occupants and the landlord.

The tenant AT submits that he should not be required to pay the landlord's filing fee as the landlord was culpable for things done to him as well. The tenant has filed his own application for dispute resolution seeking compensation against the landlord and the tenant submits that the two filing fees should cancel one another out.

The tenant JH submits that her tenancy with the landlord ended as of July 26th and that the landlord was not seeking an order for an early end to tenancy against her.

Analysis

When the landlord and the tenant JH together signed a mutual agreement to end tenancy effective July 26, 2022, the rights and obligations of JH ended. The landlord was not seeking an order for an early end to tenancy against her, as her tenancy had already ended. Consequently, JH is not required to compensate the landlord with the \$100.00 filing fee.

I find that at the time the landlord filed his application for dispute resolution seeking the early end to tenancy against the tenant AT, the landlord felt a responsibility to the other occupants of the rental property to secure their safety. As such, I do not find the landlord's application to be frivolous or lacking merit to be determined by a dispute resolution hearing. Pursuant to section 72 of the Act, the landlord's filing fee of \$100.00 can be recovered from the tenant AT.

In accordance with the offsetting provisions of section 72 of the Act, the landlord may retain \$100.00 of the tenants' security deposit in full satisfaction of the recovery of the filing fee. I do not know what arrangements were made between the co-tenants regarding the eventual disposition of their security deposit at the end of the tenancy; the order that the landlord to retain \$100.00 of the security deposit applies to it regardless.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue an Order of Possession to the landlord. The landlord is to serve this Order of Possession upon the tenant immediately and enforce it as early as 10:00 a.m. on August 16, 2022, should the landlord be required to do so.

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: August 16, 2022

Residential Tenancy Branch