



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: *OPC, MNSD, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession. The landlord also applied to recover the filing fee and to retain the security deposit.

The notice of hearing was served on the tenant on June 01, 2009, by registered mail. The landlord filed a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover the filing fee and to retain the security deposit?

Background and Evidence

The landlord testified that the tenancy started on June 01, 2009. The monthly rent is \$428.00 due in advance on the 31st of each month. Prior to moving in the tenant paid a security deposit of \$100.00.

On June 30, 2010, the landlord served the tenant with a thirty day notice to end tenancy effective July 31, 2010. The notice to end tenancy alleges that the tenant has allowed an unreasonable number of occupants in the rental unit, has significantly interfered with or unreasonably disturbed another tenant and has jeopardized the health safety or lawful right of another occupant.

The landlord filed evidence by way of a video recording of the activities of the tenant which depict the tenant's visitors stealing a plant from a common hallway, littering the hallway and going in and out of the rental unit on multiple occasions. The landlord also filed written complaints from the neighbours regarding the tenant throwing dirt and water from the balcony of the rental unit into the neighbour's balcony.

The landlord has applied for an order of possession and has applied to retain the security deposit of \$100.00 towards the cost of cleaning.

Analysis

Based on the undisputed testimony of the landlord, I find that the tenant received the notice to end tenancy on June 30, 2009 and did not file an application to dispute the notice. Pursuant to section 47 (5) of the *Residential Tenancy Act*, if a tenant has received a notice to end tenancy for cause and does not make an application for dispute resolution within ten days after receiving the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

Therefore, the landlord is entitled to an order of possession and pursuant to section 55(2); I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord has established a claim for \$100.00 towards the cost of cleaning. Since the landlord has proven his case, I find that he is also entitled to \$50.00 for the filing fee.

I order that the landlord retain the security deposit of \$100.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$50.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant and a monetary order in the amount of **\$50.00**.

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: September 07, 2010.

Dispute Resolution Officer