



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: O FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) An Order of Possession pursuant to Sections 44, and 55; and
- b) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Both parties attended and the tenant agreed they received personally the Application for Dispute Resolution. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The parties signed a fixed term lease expiring May 31, 2013 and agreeing that the tenant would deliver vacant possession. Is the landlord now entitled to an Order of Possession and to recover the filing fee?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced on June 1, 2012 with an expiry date of May 31, 2013 and both parties agreed that they initialled the option that the tenant would move out and the tenancy end on May 31, 2013.

The tenant said the application was premature as he intended to abide by the terms of the lease so he objected to being charged a filing fee. The landlord agreed to waive the fee and requested that he obtain an Order of Possession for May 31, 2013 which he intends to have only as a precaution.

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 entitled to an Order of Possession. There is a fixed term lease with an expiry date of May 31, 2013 and the parties initialled their agreement that the tenancy would end and the tenant move out on May 31, 2013. An Order of Possession is issued to the landlord.

Conclusion:

I find the landlord is entitled to an Order of Possession effective May 31, 2013. I find the landlord is not entitled to recover the filing fee as he waived it in the hearing.

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: May 28, 2013

Residential Tenancy Branch