



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

This hearing dealt with an application by the tenant for an order setting aside a 2 Month Notice to End Tenancy for Landlord's Use. Both parties appeared and had an opportunity to be heard.

At the beginning of the hearing I explained the relevant law to the parties including:

- As the rent is due on the first day of the month, the effective date of a 2 Month Notice to End Tenancy for Landlord's Use served any time in May is July 31, 2013. (s.49(2))
- Every tenant who is served with a 2 Month Notice to End Tenancy for Landlord's Use is entitled to one month's free rent. (s.51)
- If the landlord uses the unit for a purpose other than the purpose stated on the notice to end tenancy, the landlord may be liable for payment of a penalty equal to two months' rent. This penalty is imposed by s. 51(2) and is only payable if the tenant is successful on a subsequent application for dispute resolution.

After hearing this explanation the tenant indicated he was prepared to comply with the notice to end tenancy and agreed that an Order of Possession effective 1:00 pm, July 31, 2013, be granted to the landlord. Accordingly, an order of possession is granted to the landlord. If necessary, this order may be filed with the Supreme Court and enforced as an order of that court.

It was made clear that the tenant did not have to pay any rent for July but as the rent does not include utilities the tenant continues to be responsible for payment of the utilities used up to the end of his tenancy.

I held that the landlord must reimburse the tenant for the \$50.00 he paid to file this application. My reasons for so doing were:

- The landlords' lack of understanding of the applicable law was a major reason why this issue ended up at a dispute resolution hearing.

- If the landlord had had to apply for an order of possession they would have had to pay a \$50.00 fee to file their application. As it turned out they received the order they would have applied for – an order of possession for the effective date of the notice to end tenancy.

I grant the tenant a monetary order in the amount of \$50.00. If necessary, this order may be filed in Small Claims Court and enforced as an order of that court.

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: June 17, 2013

Residential Tenancy Branch