



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and reimbursement of the filing fee. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail actually received on June 7, 2016, the tenant did not appear.

Issue(s) to be Decided

Is the landlord entitled to an order of possession and, if so, on what terms?

Background and Evidence

This month-to-month tenancy commenced more than ten years ago. The current monthly rent is \$500.00 and is due on the first day of the month. The tenant did not pay a security deposit.

The landlord's evidence is that the tenant was served with a 1 Month Notice to End Tenancy for Cause by registered mail actually received on April 18, 2016. The notice received by the tenant contained the following information:

- "You have the right to dispute this Notice within 10 days after you receive it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. A Dispute Resolution Officer may extend your time to file an Application, but only if he or she accepts your proof that you had a serious and compelling reason for not filing the Application on time.
- If you do not file an Application within 10 days, you are presumed to accept this Notice and must move out of the rental unit or vacate the site by the date set out on page 1 of this Notice (You can move out sooner.) If you do not file an Application, move or vacate, your landlord can apply for an Order of Possession that is enforceable through the court."

This information is summary of sections 47(4) and (5) of the *Residential Tenancy Act*. The notice also provides the telephone numbers and web site where additional information may be obtained.

The landlord testified that the tenant did not serve him with an application disputing the notice.

The landlord also testified that the rent has not been paid for June or July.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 47(5) of the *Residential Tenancy Act* to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order of possession effective two days after service on the tenant.

As the landlord was successful on his application I find that he is entitled to reimbursement from the tenant of the \$100.00 fee he paid to file it and I grant the landlord an order under section 67 in this amount.

Conclusion

- a. An order of possession effective two days after service on the tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$100.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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: July 06, 2016

Residential Tenancy Branch