



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FFL

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for cause pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. Landlord SS and the landlord's agent (collectively "the landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed he had authority to speak on behalf of landlord BS.

The landlord testified that the tenant was personally served with the landlord's application for dispute resolution hearing package ("Application") on October 11, 2018, at the address where the tenant is residing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's Application on October 11, 2018, the day it was served.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

As per the submitted tenancy agreement and testimony of the landlord, the tenancy began on April 1, 2017 on a fixed term until March 31, 2018 at which time the tenancy

continued on a month-to-month basis. Rent in the amount of \$1,850.00 is payable on the first of each month. The tenant remitted a security deposit in the amount of \$1,000.00 at the start of the tenancy, which the landlord still retains in trust.

The landlord testified that on September 9, 2018 the tenant was personally served with the landlord's 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), dated September 29, 2018. The 1 Month Notice indicates an effective move-out date of October 31, 2018. The grounds to end the tenancy cited in that 1 Month Notice were;

- rental unit/site must be vacated to comply with a government order

### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does not file an application, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must move out of the rental unit.

Based on the landlord's testimony and the notice before me, I find that the tenant was served with an effective notice. As the tenant did not file an application to dispute the notice within 10 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must move out of the unit. As this has not occurred, I find that the landlord is entitled to a two (2) day order of possession, pursuant to section 55 of the *Act*.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for the application.

In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$100.00 of the \$1,000.00 security deposit in full satisfaction of the monetary award. The landlord is cautioned to follow the provisions of section 38 of the *Act* in regards to the remaining \$900.00 security deposit balance.

### Conclusion

I grant an order of possession to the landlord effective **two (2) days after service on the tenant**.

I order the landlord to retain \$100.00 of the security deposit and address the remaining security deposit balance in accordance with section 38 of the *Act*.

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: November 01, 2018

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Residential Tenancy Branch