



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LEXINGTON ENTERPRISES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, OPB, MNR, FF

Introduction

This hearing was convened in response to applications by the tenants and the landlords.

The tenants' application is seeking orders as follows:

1. To have the landlord comply with the Act, regulation or tenancy agreement.

The landlords' application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Issues to be Decided

Should the landlords be ordered to comply with the Act, regulation or tenancy agreement?

Are the landlords entitled to an order of possession?

Are the landlords entitled to monetary order for unpaid rent?

Background and Evidence

The parties entered into fixed term tenancy which began November 2012. The fixed term agreement was renewed on July 1, 2013 and was to expire on September 30, 2013. Rent in the amount of \$725.00 was payable on the first of each month. A security deposit of \$362.50 was paid by the tenants. Filed in evidence is a copy of the tenancy agreement, which was signed by the parties on July 1, 2013.

The tenant stated that they were unaware that the landlord was not going to renew the fixed term agreement and because of that they did not have sufficient notice to find new accommodations. The tenant stated that they have not been looking for alternate rental accommodation since filing their application.

The landlord stated that the tenants were aware that they were not going to extend the tenancy again when they signed the agreement on July 1, 2013. The landlord stated that the fixed term agreement has expired and the tenants are now overholding the rental unit and seeks an order of possession.

The landlord stated that the tenants have not paid rent owed for October 2013, and seeks a monetary order in the amount of \$725.00.

The tenant did not deny that rent is owed for October 2013.

Analysis

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

Under section 44 of the Act, the tenancy legally ends if the tenancy agreement is a fixed term tenancy agreement that provides that the tenants will vacate the rental unit on the date specified as the end of the tenancy.

In this case, the parties entered into a fixed term agreement that was to expire on September 30, 2013. The tenancy agreement stated at the end of this fixed term rental agreement, the tenancy ends and the tenant must give up vacant possession of the residential unit by 1 p.m. on the specified lease end date, which is signed and initialled by the tenants.

As a result, I find there is no provision under the Act that gives me the authority to change or extend that legal and binding agreement, when that agreement complies with the Act. Therefore, I find the tenants' have failed to prove the landlords have violated the Act, regulation or tenancy agreement. As a result, I dismiss the tenant's application.

As I have dismissed the tenants' application, I find the tenancy legally ended on September 30, 2013, as stated in the tenancy agreement. I find the tenants have breached the Act and tenancy agreement when they failed to vacate the residential unit on the specified vacancy date. I find that the landlords are entitled to an order of possession effective **two days after service** on the tenants and this order may be filed in the Supreme Court and enforced as an order of that Court.

As I have found the tenancy legally ended on September 30, 2013, and the tenants have continued to occupy the premises, I find the landlords are entitled to recover occupancy rent for the month of October 2013. Therefore, I find the landlords are entitled to recover loss of rent in the amount of **\$725.00**.

I find that the landlords have established a total monetary claim of **\$775.00** comprised of rent for October 2013, and the \$50.00 fee paid for this application.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The tenants' application is dismissed.

The landlords are granted an order of possession. The landlords are granted a monetary order in the above amount.

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 08, 2013

Residential Tenancy Branch

