Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   FFL, OPM

Introduction

This hearing was scheduled to convene at 11:00 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession due to a mutual agreement, and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord testified that the tenant was served with the Application for Dispute Resolution, notice of this hearing and evidentiary material (the Hearing Package) by personally handing it to the tenant on September 30, 2020 and has provided a statement to that effect with a witness signature. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act.*

All evidence of the landlord has been reviewed and is considered in this Decision.

Issues to be Decided

Has the landlord established that the tenant and the landlord mutually agreed to end the tenancy?

Background and Evidence

The landlord testified that this fixed-term tenancy began on August 9, 2020 which expires on August 9, 2021 and then reverts to a month-to-month tenancy, and the tenant still resides in the rental unit. Rent in the amount of $925.00 per month is payable on the 1st

day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of $462.50 as well as a $20.00 key deposit, which are still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a suite in a duplex, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord further testified that on September 4, 2020 the landlord received complaints from neighbours, and went to talk to the tenant. The tenant agreed to move out and suggested September 30, 2020 as the effective date. The landlord went home and prepared a mutual agreement to end the tenancy, returned to the rental unit and the parties both signed it. A copy has been provided for this hearing and it is dated September 4, 2020 and contains an effective date of vacancy of September 30, 2020, and is signed by the landlord and the tenant.

The tenant has not vacated the rental unit, and the landlord seeks an Order of Possession and recovery of the $100.00 filing fee.

Analysis

I have reviewed the tenancy agreement and the mutual agreement to end the tenancy. The *Residential Tenancy Act* specifies how a tenancy ends, which includes a mutual agreement in writing. I find that the signature of the tenant is the same on the tenancy agreement and the mutual agreement. Therefore, I accept the undisputed testimony of the landlord that the parties agreed in writing to end the tenancy earlier than the fixed term, and the landlord is entitled to an Order of Possession.

Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the $100.00 filing fee, and I order the landlord to keep $100.00 of the security deposit held in trust as recovery.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further order the landlord to keep $100.00 of the security deposit held in trust as recovery of the filing fee.

This order is final and binding and may be enforced.

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 27, 2020

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Residential Tenancy Branch