



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPT

Introduction

This hearing dealt with the tenant's application, filed on March 3, 2023, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession of the rental unit, pursuant to section 54.

The landlord and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing lasted approximately 33 minutes from 11:00 a.m. to 11:33 a.m.

Both parties confirmed their names and spelling. Both parties provided their email addresses for me to send copies of this decision to them after this hearing.

The landlord stated that he is a building manager for the rental unit. He said that he had permission to represent the owner of the rental unit, at this hearing.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules") does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, both parties separately affirmed, under oath, that they would not record this hearing.

I explained the hearing process to both parties. I informed them that I could not provide legal advice to them or represent them as their agent or advocate. They had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant's application.

Both parties agreed that the tenant vacated the rental unit, prior to this hearing. Both parties agreed that both parties signed a mutual agreement to end tenancy on February 1, 2023, for the tenant to vacate the rental unit by 5:00 p.m. on February 15, 2023.

The tenant said that he has been living in other residences since moving out of the rental unit. He stated that most of his belongings were gone, there was no point in going back, and he could not go back to the rental unit. He claimed that he signed the mutual agreement "under duress" because the landlord told him it was "better if he signed" and said he would go to the RTB and Court if he did not. The tenant asked for his possessions to be returned by the landlord; I informed the tenant that he did not file an application for same.

The landlord said that he did not want the tenant to move back into the rental unit because the tenant and his roommate posed a health and safety risk by hoarding at the rental unit, causing fire hazards, and preventing repair people from accessing the unit. He claimed that he offered for the tenant to pick up his belongings, but the tenant did not respond, so he stored some of them in the office at the rental property.

During this hearing, both parties agreed that the landlord will provide access for the tenant to pick up his remaining belongings from the rental property, by 1:00 p.m. on March 28, 2023.

I notified the tenant that he signed a mutual agreement to end tenancy, he moved out of the rental unit, he did not intend to return to occupy the rental unit, and he only wanted to pick up his belongings. I find that the tenant did not provide sufficient evidence that he was under "duress" when he signed the mutual agreement. The landlord provided a signed copy of the mutual agreement. For the above reasons, I informed the tenant that his application for an order of possession of the rental unit, was dismissed without leave to reapply. The tenant affirmed his understanding of same.

Conclusion

The tenant's application is dismissed without leave to reapply.

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: March 27, 2023

Residential Tenancy Branch