

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes: *OPT.*

Introduction

This hearing dealt with an application by the Tenant pursuant to the *Residential Tenancy Act* to obtain an order of possession of the rental unit, pursuant to Section 54.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issues to be decided

- Is the tenant entitled to an order of possession?

Background and Evidence

Based on the affirmed testimony of both parties the agreed upon facts are as follows: The tenancy started on August 01, 2005. The monthly rent is \$519.00 due in advance on the first day of the month. On October 09, 2008, the tenant got into a domestic dispute with the co tenant and was removed from the unit by the local police. The tenant was ordered to have no contact with the co tenant, while the co tenant continued to reside in the rental unit. On January 27, 2009, the co tenant gave the landlord a written notice stating that the co tenant would be moving out and was handing over the tenancy and the contents of the rental unit to the tenant. The tenant contacted the landlord regarding moving into the rental unit and the landlord advised the tenant that the tenancy would not be allowed to continue. The landlord accepted rent for February but did not permit the tenant to occupy the unit. On February 05, 2009, the tenant made this application for an order of possession of the rental unit.

Analysis

Pursuant to section 63 of the *Act*, during the hearing the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute. Specifically, it was agreed as follows, that:

- The tenant agrees to withdraw the application for an order of possession.
- The landlord agrees to let the tenant enter the unit by prior arrangement to remove the tenant's belongings and will have access to the unit for a period of three days.
- The tenant will call the landlord on or before March 20, 2009 to make an appointment to have access to the rental unit. The appointment will be made for a date not later than March 28, 2009 to enable the tenant to remove all personal belongings by March 31, 2009.
- The landlord will pay the tenant \$519.00 which is the amount that the tenant paid to the landlord for rent for the month of February 2009.
- The parties will exercise any additional goodwill and spirit of cooperation necessary in regard to the above undertakings, which might be required to achieve a positive end to this landlord – tenant relationship.

Conclusion

Both parties came to a mutual agreement as per the above terms. The tenant has withdrawn the tenant's application for an order of possession.

Dated March 10, 2009.

Dispute Resolution Officer