



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR; MND; MNR; MNSD; MNDC; FF

Introduction

This matter was scheduled to hear the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and damages; compensation for damage or loss; to apply the security deposit towards partial satisfaction of her monetary award; and to recover the cost of the filing fee from the Tenant.

Background and Evidence

At the outset of the Hearing, the parties acknowledged that they had signed a mutual agreement that the Tenant would provide vacant possession to the Landlord by 1:00 p.m., June 30, 2011.

The subject property is a suite in a hotel. The Landlord testified that the Tenant had occupancy of the suite under a 60 day Licence to Occupy Agreement, and therefore the Residential Tenancy Act did not have jurisdiction over this matter. The Landlord testified that rent was due every 30 days under the Licence to Occupy.

The Tenant testified that she had a Tenancy Agreement with the Landlord because the suite was her principal residence. She stated that she did not have a copy of the Agreement that she signed. The Landlord stated that she would provide her with one.

The Tenant testified that she has lived in the rental unit since November 1, 2010. She stated that she paid a security deposit at the beginning of the tenancy in the equivalent of one half of one month's rent.

Neither party provided any documentary evidence to the file or to each other.

The Landlord's agent requested an Order of Possession in the event the Tenant does not provide vacant possession by June 30, 2011.

Analysis

During the Hearing the parties disagreed with respect to jurisdiction. Based on the oral testimony of both parties, I find that this is a tenancy and that it falls within the jurisdiction of the Residential Tenancy Act. I was particularly influenced by the following facts:

1. The Tenant rented the room on a monthly basis, since November, 2010;
2. The Tenant paid a security deposit in the equivalent of ½ a month's rent;
3. The Tenant paid rent in advance; and
4. The Landlord filed an Application for Dispute Resolution seeking a Monetary Order and Order of Possession under the Residential Tenancy Act.

The Landlord's application filed May 11, 2011, is for relief based on a Notice to End Tenancy for Unpaid rent. The Landlord did not provide a copy of the Notice to End Tenancy in evidence. Today, the Landlord sought an Order of Possession based on a mutual agreement that the tenancy will end, because she is concerned that the Tenant will not honour the mutual agreement to end the tenancy. This is a different application from the one the Landlord filed on May 11, 2011. I decline to amend the Landlord's application and will not provide the Landlord with an Order of Possession.

Conclusion

The Landlord's application is dismissed.

The parties have agreed that the tenancy will end at 1:00 p.m. on June 30, 2011.

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: June 13, 2011.

Residential Tenancy Branch