



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ET

Introduction

This hearing was scheduled in response to an Application for Dispute Resolution, in which the Applicant has made application for an Order of Possession and an early end to the tenancy.

The male Applicant in attendance stated that he personally served copies of the Application for Dispute Resolution and Notice of Hearing to the Respondent with the initials R.R. on October 23, 2011.

The male Applicant in attendance stated that he personally served copies of the Application for Dispute Resolution and Notice of Hearing to the Respondent with the initials R.D. on October 23, 2011.

The male Applicant in attendance stated that he personally served copies of the Application for Dispute Resolution and Notice of Hearing to the Respondent with the initials A.N. on October 21, 2011.

In the absence of evidence to the contrary, I find that all three Respondents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however none of them appeared at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Applicant is entitled to end this tenancy early and to an Order of Possession on the basis of the early end to the tenancy, pursuant to section 56 of the *Act*.

Background and Evidence

The female property owner stated that the Respondents entered into a tenancy agreement with the Respondent with the initials R.R. for the basement unit in a different residential complex on the same road as rental unit that is the subject of this dispute; that the Respondent with the initials R.R. has never lived at the basement unit that was the subject of their tenancy agreement; that the Respondent with the initials R.R. allowed the other two Respondents to move into the rental unit that is the subject of this dispute; that the Applicant has never entered into a tenancy agreement with any of the Respondents for the rental unit that is the subject of this dispute; that none of the Respondents have paid rent for the rental unit that is the subject of this dispute; and that

the Respondents with the initials R.D. and A.N. are living in the rental unit that is the subject of this dispute.

The female property owner stated that on the advice of the police, the Applicant served the Respondents with a One Month Notice to End Tenancy for Cause.

Analysis

The *Residential Tenancy Act (Act)* defines a tenancy agreement as "tenancy agreement" as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit. On the basis of the information provided by the Landlord and in the absence of evidence to the contrary, I find that the Applicant and the Respondents have not entered into a tenancy agreement, either orally or in writing, for this rental unit. In reaching this conclusion I was heavily influenced by the testimony of the female property owner, who stated that none of the Respondents have ever been given permission to occupy this particular rental unit and that none of them have ever paid rent for the unit.

The *Act* defines a "tenancy" as a tenant's right to possession of a rental unit under a tenancy agreement. As there is no reason for me to conclude that the parties have entered into a tenancy agreement, I have no reason to conclude that a tenancy has been created. I therefore conclude that the Respondents have none of the rights or obligations established by the Act, including the right to occupy the rental unit.

Conclusion

The *Act* authorizes me to resolve disputes between landlords and tenants. As I have determined that the Applicant and the Respondents do not have a tenancy agreement, I find that I do not have jurisdiction over this matter. As I do not have jurisdiction in this matter, the Application for Dispute Resolution is dismissed without leave to reapply. The Landlord has the right to regain possession of the rental unit without an Order of Possession from the Residential Tenancy Branch.

I note that I have made no determination regarding whether a tenancy exists for the basement unit at a different residential complex on the same road as rental unit that is the subject of this dispute, as that unit is not the subject of these proceedings.

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: October 31, 2011.

Residential Tenancy Branch