



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD FF

Preliminary Issues

At the outset of the hearing the Landlord advised that the service address provided to her by the Tenant was not valid and the hearing documents that were sent via registered mail on November 22, 2011 were returned. She stated that she understood that in this circumstance she could not proceed with her request for a monetary order so she was requesting to withdraw her request for monetary compensation and to proceed with an Order of Possession because the Tenant left a “squatter” residing in the house.

Section 89 of the Act provides methods of service for an application for dispute resolution which includes registered mail sent to the address where the person resides. Pursuant to section 71(1) of the Act, I find that the Landlord has met the service requirements for a request for an Order of Possession as the hearing documents were served to the Tenant, via registered mail, to his forwarding address which he provided via e-mail on November 3, 2011, and again via e-mail on December 5, 2011.

The Landlord has withdrawn her request for monetary compensation, with leave to reapply.

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an immediate order of possession and to recover the cost of the filing fee from the Tenant for this application.

The Landlord appeared at the teleconference hearing, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form.

Issue(s) to be Decided

1. Has the Tenant abandoned the rental unit leaving an occupant to reside in the unit?

2. If so, has the Landlord met the requirements of the *Residential Tenancy Act* to regain possession of the rental unit.

Background and Evidence

The parties entered into a month to month tenancy agreement that began on April 1, 2010. Rent is payable on the first of each month in the amount of \$900.00 and on April 9, 2010 the Tenant paid \$450.00 as the security deposit.

The Landlord affirmed that when the Tenant failed to pay rent a 10 Day Notice to End Tenancy was served to him on July 13, 2011. She attempted to have the Tenant vacate based on this Notice.

Then on November 3, 2011 she received an e-mail from the Tenant informing the Landlord that he had moved to another city and provided his forwarding address. The Landlord stated she attended the rental unit a few days later and found that someone was living in the unit so she left her business card and a letter taped to the door informing whoever was residing in the unit that they were squatters and needed to vacate her house.

The Landlord made reference to her evidence which included an e-mail exchange between her and the Tenant on December 5, 2011 which confirms the Tenant has not occupied the rental unit since October 29, 2011. The Landlord requested an immediate order of possession so the police can aid her in regaining possession of her house.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite acknowledging receipt of the hearing documents by e-mail on December 5, 2011, I accept the version of events as discussed by the Landlord and corroborated by her documentary evidence which included a copy of an e-mail exchange between the Landlord and Tenant.

I accept the evidence before me that the Tenant has abandoned the rental unit since October 29, 2011 and that an unknown occupant(s) continues to reside in the rental unit. Accordingly, I find this tenancy to have ended on October 29, 2011 pursuant to section 44(1) of the Act, and I approve the Landlord's request for immediate possession.

An occupant is defined in the *Residential Tenancy Policy Guideline Manual*, section 13 as follows: where a tenant allows a person who is not a tenant to move into the premises, the new occupant has no rights or obligations under the original tenancy agreement.

Conclusion

The Landlord's decision will be accompanied by an Order of Possession effective immediately upon posting the notice to the door of the rental unit. This Order is legally binding.

The Landlord has been successful with her application, therefore I award her recovery of the \$50.00 filing fee. This one time award of \$50.00 may be retained from the Tenant's security deposit.

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: December 09, 2011.

Residential Tenancy Branch