



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, OPC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession based on a Notice to End Tenancy for cause, a monetary order for damages to the rental unit and to recover the filing fee for the Application.

Only the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified that the Tenant was served in person with the Notice of Hearing and Application on December 27, 2012; however, the Tenant did not appear at the hearing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlords to an Order of Possession and monetary relief?

Background and Evidence

The Landlord provided a copy of a note from the Tenant from August of 2012. The note gave the Landlord Notice the Tenancy would end and that the Tenant was moving in October of 2012. However, the Tenant did not vacate in October of 2012.

The Landlord then gave the Tenant a one month Notice to End Tenancy with an effective date of December 31, 2012. The Landlord testified that the Tenant moved out, around that time, without telling the Landlord he had moved.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Although the Landlord would be entitled to an order of possession in these circumstances, the Tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Landlord was required to make this Application in order for the Tenant to vacate.

Therefore, I allow the Landlords the **\$50.00** fee paid for this application.

I order that the Landlords may retain \$50.00 from the security deposit held. The Tenant has not provided the Landlord with a forwarding address and therefore, the Landlord has no ability to forward the balance to the Tenant at this time.

I dismiss the claims of the Landlord for damages to the rental unit with leave to reapply as the Landlords applied prematurely for these claims, and the Landlords have leave to apply for any further monetary orders.

Conclusion

The Tenant vacated the rental unit. Therefore, an Order of Possession is not required.

The Landlords may keep \$50.00 from the security deposit for the cost of the Application and have leave to apply for further monetary compensation.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: January 24, 2013

Residential Tenancy Branch