



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Other (OPT)

Introduction

This hearing was convened in response to an application filed by the landlords seeking an Order of Possession of the rental unit.

Both parties attended the hearing and gave evidence under oath.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlords say the tenant gave notice to end this tenancy at the end of March then asked to remain until the end of April. The landlord says they allowed the tenants to remain until the end of April but they have still failed to vacate. The landlord wishes to sell the house and wants an Order of Possession to ensure that the tenants will vacate.

The landlord submits that he did not give his notice. The tenant says the landlords told him they were going to sell the house and asked that if he could arrange to vacate that this would be helpful. The tenant says he advised the landlords that he would try to vacate but he has been unable to find new accommodation.

The tenant says the letter the landlord purports to be a “notice” to end the tenancy was not that at all but a letter to try to negotiate payment of March’s rent. The tenant says he did not have the money to pay the rent owed and he wished the landlord to use his security deposit plus the 5% interest he believed due under the law towards paying March’s rent. The tenant calculated that the security deposit now had a value of \$1,080.00 with interest. Further, the tenant believed he was owed sums for grass

cutting and for paying the water bill. The tenant submits that when all sums taken together this would mean he would only have to pay \$400.00 to March's rent.

The landlords say the tenant has not paid rent either and they are demanding their rent.

Analysis

I have reviewed the letter purported to be the tenant's notice to end this tenancy and I find that the letter is not a notice to end tenancy but an attempt by the tenant to negotiate a rental payment and seek to have certain sums applied to a rental payment. Without commenting on the merit of his submissions in that regard I do find that the subject letter does not contain sufficient information to be found to be a notice to end tenancy as described in Sections 45 and 52 of the *Residential Tenancy Act*:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(4) A notice to end a tenancy given under this section must comply with section 52 [*form and content of notice to end tenancy*].

52 In order to be effective, a notice to end a tenancy must be in writing and must

(a) be signed and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and

(e) when given by a landlord, be in the approved form.

In this case it is unclear when this notice was issued, when the tenancy is to end and it is not signed by the tenants.

Conclusion

The landlords' application seeking an Order of Possession is dismissed. With respect to the non-payment of rent issue raised by the landlords I have no application before me in that regard and will therefore make no findings on that issue.

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 18, 2013

Residential Tenancy Branch

