



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT, LAT

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking an order of possession for the rental unit and an order authorizing him to change locks at the rental unit.

Only the Tenant appeared at the hearing. He 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 Tenant testified and submitted evidence that he had served the Landlord with the Notice of Hearing and the Application, by registered mail. Tracking information supplied in documents from the Tenant indicate the Landlord signed for these on January 9, 2014. Despite this the Landlord did not appear at the hearing. I find the Landlord has been 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

Is the Tenant entitled to possession of the rental unit?

Is the Tenant authorized to change the locks?

Background and Evidence

The Tenant testified that he moved into the rental unit on December 7, 2013. He testified that he was given the approval to be a tenant from the Landlord named in this Application.

The Tenant explained that the Landlord was dealing with urgent family matters and allowed him to become a tenant along with a third party who had a written tenancy agreement with the Landlord. The Tenant further testified that he was informed by the Landlord that this third party renter could act as her agent (the "Agent for the Landlord"). The Tenant testified that the Landlord said the Tenant could live there, even if the Agent for the Landlord moved out. The Tenant explained he had text messages to this effect, but could not retrieve them.

The Tenant produced receipts showing he paid the Agent for the Landlord \$50.00 as a down payment toward the security deposit, \$350.00 for December 2013 rent, and \$350.00 for January 2014 rent. The Agent for the Landlord was to pay these funds to the Landlord on behalf of the Tenant. The Landlord was to complete forms provided by the Tenant for rental assistance payments; however, the Landlord has failed to sign these documents. The Tenant explained that around Christmas time the Landlord's spouse passed away, and the Landlord has been attending to these matters.

The Tenant testified that he was provided with a key to the rental unit and a key to a patio door. The Tenant testified he was not provided with a key to the rental unit building or the mailbox. He gained access by buzzing the Agent for the Landlord who was residing in the rental unit and then from other renters in the building. The Tenant also testified that there appears to be a professional management company managing the building, although he believed this company was acting on behalf of a strata corporation. Nevertheless, he testified that this company informed him they would provide a key to him once they had a confirmation from the Landlord.

During the course of moving into the rental unit and over the first few days of the tenancy, the Tenant became aware that the Agent for the Landlord for the Landlord had been having problems with the neighbours in the building. The Tenant did his best to explain to these people that he was new and would work with them to maintain or try and re-establish the peace in the building.

The Tenant testified that he was aware that he should have an incoming condition inspection report prepared, as he was moving into a rental unit where there may have been prior damage done to the rental unit. The Tenant testified that this angered the Agent for the Landlord and things quickly went downhill from there. The Agent for the Landlord then began restricting access to the rental unit and then would not let the Tenant into the rental unit at all.

The Tenant testified he tried contacting the Landlord and she informed him she could not deal with this at the same time, as she was dealing with the passing of her spouse.

The Tenant testified that on or about January 1, 2014, he attended the rental unit and the locks had been completely removed and there was no security for his property in the rental unit. The Agent for the Landlord had vacated the rental unit without any notice to the Tenant. The Tenant further alleges that the Agent for the Landlord removed some of the Tenant's property without permission. The Tenant also had difficulty locating his pet cats. Apparently one had been taken in by neighbours, who now refuse to return the cat to him. The other cat was taken to the pound, and the Tenant has now received this pet back.

The Tenant returned to the rental unit on or about January 6, 2014, and apparently the police attended as someone called them believing the Tenant was breaking into the building. The Tenant returned the next day to the rental unit and found that locks had been installed on the rental unit; however, he has not been given a key.

The Tenant testified that no one else has moved into the rental unit and much of his personal belongings are there. He also testified that he was given space in a storage locker in the building, but now is unable to access it.

Analysis

Based on the above, the undisputed testimony and evidence, and on a balance of probabilities, I find the Tenant has established that he has an oral tenancy agreement with this Landlord and I find he has a right to possession of the rental unit named herein.

I grant the Tenant an order of possession for the rental unit effective immediately after service of this order upon the Landlord, and the Tenant may serve a courtesy copy to the professional company who may be representing a strata corporation at the building. Nevertheless, I am unable to order the professional company to abide by this decision and order as I have insufficient evidence to determine what relationship they might have with the Landlord.

Regardless, the Landlord is ordered to provide possession of the rental unit to the Tenant and to abide by all the rights and obligations under the *Residential Tenancy Act*.

The Landlord is further ordered to and must provide a key to access the building, the mail box for the rental unit, the storage locker for the rental unit and other facilities the Tenant is entitled to under his tenancy agreement.

I further order that the Tenant is authorized to change the locks in the rental unit and must provide the Landlord with one copy of the key(s) to the rental unit. The Landlord must abide by the *Residential Tenancy Act* in order to access the rental unit and may not change the locks to the rental unit without the prior written consent of the Tenant or with an order from an Arbitrator appointed by the Director.

The Tenant is granted leave to apply for monetary orders for any losses he may have suffered.

Conclusion

The Tenant is granted an order of possession which must be served on the Landlord. The Landlord must provide access to the rental unit in accordance with the Act, including providing the Tenant with keys to access the rental unit building.

The Tenant is authorized to change the locks and must provide a copy to the Landlord as described above.

As I have found a tenancy exists here, this tenancy may only be ended in accordance with the Act and both parties are advised to adhere to their rights and obligations under the Act.

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 20, 2014

Residential Tenancy Branch

