



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT, AAT, LAT, FF, O

Introduction

This is an application filed by the tenant to obtain an order for possession of the rental unit, to be allowed access to or from the unit or site, to authorize the tenant to change the locks to the rental unit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package, I am satisfied that both parties were properly served with the notice of hearing package.

During the hearing the landlord, S.L. stated that she did not serve the tenant with any of her documentary evidence. The tenant has confirmed this in his direct testimony. As the landlord has failed to comply with the rules of procedure over the service of evidence, the landlord's documentary evidence shall not be considered for this hearing. Both parties provided direct testimony.

At the beginning of the hearing, the tenant withdrew his request to change the locks. As such, no further action is required for this portion of the dispute.

Issue(s) to be Decided

Is the tenant entitled to an order of possession?
Is the tenant entitled to an order for access?

Background and Evidence

The tenant seeks to obtain an order of possession to enforce his tenancy agreement as the landlord has entered into another tenancy with another tenant before the end of his tenancy was ended by a notice to vacate or a mutual agreement to end the tenancy was

agreed upon. The tenant also states that he merely wishes to maintain rental and access of the garage where his belongings are stored.

It was clarified with both parties in their direct testimony that the tenant was a co-tenant with his partner, R.B. who started a tenancy together with the landlord, S.L. in July of 2013 on a fixed term tenancy until July of 2014. The landlord, D.W. confirmed this in his direct testimony. The tenant, R.P. vacated the rental unit after ending his relationship with R.B. as confirmed by the tenant's agent, T.F. and the landlord, S.L. The landlord confirmed that the tenant, R.B. ended the previous tenancy agreement by entering into a new tenancy agreement with the landlord, S.L. after R.P. vacated to remove R.P. from the tenancy in January of 2014.

The tenant states that the co-tenant, R.B. did not have his consent to end the original tenancy and argues that it is still in effect. The landlord, D.W. also states that the landlord, S.L. did not have his authority to act in his stead to end the old tenancy agreement and enter into a new one with R.B.

Analysis

I accept the undisputed evidence of both parties. It was clarified that the tenant, R.P. was a co-tenant, with R.B. who vacated the rental unit. The tenant, R.B. gave notice to the landlord, S.L. to end that tenancy by removing the tenant, R.P. by entering into a new signed tenancy agreement with the landlord.

Residential Tenancy Policy Guideline #13, the Rights and Responsibilities of Co-Tenants state,

This Guideline clarifies the rights and responsibilities relating to multiple tenants renting premises under one tenancy agreement.

A tenant is the person who has signed a tenancy agreement to rent residential premises. If there is no written agreement, the person who made an oral agreement to rent the premises and pay the rent is the tenant. **Co-tenants are two or more tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly responsible for meeting the terms of the tenancy agreement.** Co-tenants also have equal rights under the tenancy agreement.

Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Where co-tenants have entered into a fixed term lease agreement, and one tenant moves out before the end of the term, that tenant that remains responsible for the lease until the end of the term. If the landlord and tenant sign a written agreement to end the lease agreement, or if a new tenant moves in and a new tenancy agreement is signed, the first lease agreement is no longer in effect.

I find that the tenant, R.B. by giving notice to the landlord, S.L. and entering into a new signed tenancy agreement has ended the first tenancy agreement. The co-tenant, R.P. and the co-landlord, D.W. must concede that a new agreement is in force and neither party has provided any evidence to show that the co-tenant, R.B. and the co-landlord did not have the authority to enter into a signed tenancy agreement.

The tenant's application for an order of possession is dismissed. As there is no valid tenancy the remaining portions of the application are dismissed.

Conclusion

The tenant's entire application is dismissed.

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: March 31, 2014

Residential Tenancy Branch

