



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This was a hearing with respect to an application for an order for possession and a monetary order for unpaid rent. The hearing was conducted by conference call. The respondent called in at the time set for the hearing. The applicant called in late. After the hearing commenced, the named witness was added to the conference call hearing at the request of the applicant

Issue(s) to be Decided

Is the applicant entitled to an order for possession?

Is the applicant entitled to a monetary award for unpaid rent?

Background and Evidence

The rental unit is an apartment in Vancouver. Testimony at the hearing established that the witness, Mr. E.P. is the owner of the rental unit. The applicant entered into a tenancy agreement with the owner, but later sublet the rental unit to the respondent and another individual. The applicant does not currently live in the rental unit, but he wishes to move back into the unit. The applicant served the tenant with a Notice to End Tenancy for unpaid rent.

The tenant testified that the applicant has been evicted by the owner of the rental unit. He provided a copy of a tenancy agreement signed by the tenant and the owner as landlord for a tenancy to commence on January 1, 2015 at a monthly rent of \$820.00.

At the hearing the owner acknowledged that he signed the tenancy agreement with the respondent, but said it was intended to be an application for tenancy and whether or not there would be a tenancy with the respondent would depend on my decision and the outcome of this dispute resolution proceeding. The owner testified that he served the

applicant with a Notice to End Tenancy for unpaid rent because he failed to pay the rent due for December, but because the applicant had paid part of the rent he did not take any eviction proceedings and said he was prepared to give the applicant a chance to continue his tenancy. The owner said that he was aware that the applicant has sublet the rental unit. The owner appeared to be unwilling to take a position with respect to who is, or should be the actual tenant and occupant of the rental unit.

There is another occupant living in the rental unit and apparently paying rent to the applicant. She was not named in the application and took no part in the proceeding.

Analysis

The applicant did not provide documentary evidence concerning his tenancy with the owner of the rental property, nor with respect to his agreements with his subtenants. The actual relationship between the parties and with the owner of the rental unit has not been clearly set out. The applicant has not proved on a balance of probabilities that he is entitled to the relief claimed in the application. The application is dismissed with leave to reapply and the parties and the witness are encouraged to discuss this matter with a view to arriving at a settlement by agreement.

Conclusion

The application is dismissed with leave to reapply.

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: January 29, 2015

Residential Tenancy Branch

