



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Leithal Construction Co. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and an order allowing retention of the security deposit. The hearing was conducted by conference call. The landlord's representatives called in and participated in the hearing. The tenant called in after the hearing commenced.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on October 1, 2014 for a one year fixed term. The rent is \$1,300.00 due in advance on the first day of each month. The tenant paid a security deposit of \$650.00 and a pet deposit of \$650.00 at the start of the tenancy.

On April 20, 2015 the landlord served the tenant with a one month Notice to End Tenancy for cause by attaching it to the door of the rental unit. The landlord has claimed that the rental unit has been occupied by the tenant's son, who has disturbed and interfered with the quiet enjoyment of other occupants of the rental property. The tenant did not file an application to dispute the Notice to End Tenancy. At the hearing the tenant stated that she and her son have moved out of the rental unit. The landlord's representatives said that they have observed signs that the tenant is moving, but they are not convinced that the occupants have moved out of the rental unit. The landlord's representative requested an order for possession and an order to retain the tenant's security deposit.

Analysis

Section 47 of the Act requires that upon receipt of a Notice to End Tenancy for cause the tenant may, within 10 days, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the Notice to End Tenancy, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The effective date of the Notice to End Tenancy is May 31, 2015.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective May 31, 2015, after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit – The landlord has claimed a monetary order in the amount of the security deposit, but I find that this claim is premature because the tenancy had not ended when the claim was made and there were no rental arrears. The landlord's claim for a monetary award is dismissed with leave to reapply once the landlord has possession of the rental unit and has had an opportunity to assess the extent of any claim it may have for damages for cleaning or repairs and for any other monetary claim that may arise out of the tenancy. The landlord is entitled to recover the \$50.00 filing fee for this application and it may retain the said sum from the security deposit that it holds.

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: May 26, 2015

Residential Tenancy Branch

