Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>   OPL, FF

<u>Introduction</u>

On March 24, 2016, the Landlord submitted an Application for Dispute Resolution requesting that an order of possession be granted because the Tenant did not move out as agreed to in writing on a Mutual Agreement to End Tenancy.

The matter was set for a conference call hearing at 1:30 p.m. on this date. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

<u>Issue to be Decided</u>

Is the Landlord entitled to an order of possession based on a mutual agreement to end the tenancy?

<u>Background and Evidence</u>

The Landlord and Tenant testified that the tenancy began sometime around June 2015, and started as a one year lease that continued as a month to month tenancy. Both parties agree that the current rent is $825.00 per month and that a security deposit of $325.00 was paid.

The Landlord testified that earlier in the tenancy he served a Notice to End Tenancy improperly, and he subsequently reached a mutual agreement with the Tenants to end the tenancy on April 1, 2016. The Landlord has provided documentary evidence of a

Mutual Agreement to End a Tenancy dated March 1, 2016, which is signed by the Landlord and the Tenants. The Landlord testified that sometime around March 24, 2016 he received a phone call from the Tenant who stated that they are not able to move out on April 1, 2016. The Landlord stated that based on this information, he applied for dispute resolution, requesting an order of possession.

The Tenant testified that she is a single mother with health issues and a son with behavioural issues. She stated that she is dealing with child custody issues with her ex-husband and that her mother is in the hospital. She stated that she knows she has to move and has taken steps towards doing so.

The Tenant confirmed that she called the Landlord around March 24, 2016, and informed him that she could not move out by April 1, 2016. Both Tenants confirmed that they had signed the Mutual Agreement to End a Tenancy with the Landlord.

Section 44 of the Act states that a tenancy ends if the Landlord and Tenant agree in writing to end the tenancy.

Section 55(2) of the Act states that a Landlord may request an order of possession for a rental unit when the Landlord and Tenant have agreed in writing that the tenancy is ended.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenants signed a Mutual Agreement to End the Tenancy and agreed to vacate the rental unit by 1:00 pm on April 1, 2016. The Mutual Agreement to End a Tenancy is valid.

The Tenants have failed to abide by the Agreement and are still living in the rental unit.

I find that the Landlord is entitled to an order of possession effective two days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

As the Tenants did not move out in compliance with the valid Mutual Agreement to End Tenancy, I find that the Landlord has established his claim that the Tenants pay him the amount of $100.00 for the cost of the Application.

Conclusion

The Landlord is granted an order of possession effective two days after service on the Tenant.

The Landlord is granted a monetary order in the amount of $100.00 for the cost of the Application.

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: April 26, 2016

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Residential Tenancy Branch