



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an order of possession for unpaid rent.

The agent for the landlord provided affirmed testimony that on December 8, 2016 copies of the Application for Dispute Resolution and Notice of Hearing were handed to the tenant. Service occurred at the rental unit. At the time of service the tenant had a guest present.

I find that these documents were served on the day of personal delivery; December 8, 2016.

The tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Background and Evidence

The landlord submits that they provide 50 units of housing in a single occupancy housing facility. The tenants are individuals who have mental health issues.

The respondent was referred to the landlord by another agency. The respondent arrived several days before the respondent was scheduled to arrive. Staff on site gave the respondent a key to the room so that she could rest.

When the landlord approached the tenant to negotiate a tenancy the tenant had a dog and four other people in the room. The tenant would not sign an Intent to Rent form, that would direct her government housing financial support to the landlord. The tenant would not sign a tenancy agreement.

On November 24, 2016 the landlord served the tenant with a 10 day Notice to end tenancy for unpaid rent. The Notice was attached to the tenants' door. The tenant has not paid rent that was due November 1, 2016 and has not paid rent, to date.

The landlord wishes to obtain possession of the room. The landlord confirmed that they have not been able to negotiate the terms of a tenancy with the person named as respondent on this application.

Analysis

I have considered the definition of tenancy contained in the Residential Tenancy Act:

“tenancy agreement” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit...”

From the evidence before me, in the absence of the respondent who was served with Notice of this hearing, I find that the respondent and landlord have not had a meeting of the minds in relation to possession of the rental unit and a tenancy agreement. There was no evidence before me that the respondent and landlord had any oral, express or implied agreement. There was intent on the part of the landlord to assist the respondent by creating a tenancy, but once the tenant was given a key so that she could rest in the room the tenant refused to engage in any discussion that would establish the terms of a tenancy agreement.

I find that the respondent was given a key to the unit as a temporary response by staff to the immediate needs of the respondent. The respondent has not cooperated with the landlord in taking any steps to establish a tenancy, by signing an Intent to Rent form that would allow rent to be paid by the government or engaged in any discussion regarding the terms of the tenancy. As a result I find that the respondent is not a tenant but an unwanted guest.

Therefore, I find that jurisdiction is declined.

Conclusion

Jurisdiction is declined.

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 *Residential Tenancy Act*.

Dated: January 16, 2017

Residential Tenancy Branch