



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to recover the filing fee for this application - Section 72.

Both the Landlord and Tenant GD attended the conference call hearing and gave evidence under oath. During the hearing the Parties came to an agreement on the possession of the unit.

Preliminary Matter

The Landlord states that there is no tenancy agreement with the Tenant GD although this Tenant did move into the unit about 4 or 5 months ago. The Landlord states that the only tenancy agreement is with Tenant DD who gave notice to end the tenancy for December 31, 2017 and who moved out. The Landlord states that Tenant GD was told to move out of the unit as well at the time that Tenant DD gave notice. The Landlord provided a copy of a tenancy agreement signed on November 27, 2015. It is noted that Tenant GD is not named as a Tenant. The Landlord denies that Tenant GD was ever a tenant in the unit and denies that any tenancy agreement was signed with Tenant GD. The Landlord states that he served a 10 day notice for unpaid rent on the dispute unit door on January 4, 2017 because the Residential Tenancy Branch told him to do this.

Tenant GD states that when he moved into the unit a new tenancy agreement of 3 to 4 pages was signed by himself and his son, Tenant DD at the same rental rate that was set previously at \$1,150.00. Tenant GD states that the security deposit of \$575.00, paid by his son at the outset of the prior tenancy, was carried over to the new tenancy agreement. Tenant GD states that despite asking for a copy of this agreement the Landlord refused to provide them with a copy. Tenant GD states that no copy of a 10 day notice was served to the dispute unit. Tenant GD states that the Landlord has renovated the other suites in the building but cannot rent them out until the dispute unit is empty. The Tenant states that he is aware that the Landlord could serve a different notice to end the tenancy. The Tenant states that he did not pay rent because the Landlord refused to provide a copy of the signed tenancy agreement.

Section 6 of the Act provides that the rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement. As the Landlord has denied the existence of a tenancy with Tenant GD I find that Tenant GD is not a tenant under the tenancy agreement that was provided by the Landlord as evidence for this hearing. Based on the Landlord's evidence that Tenant DD with whom the Landlord did have a tenancy agreement gave notice and moved out of the unit at the end of December 2016, I find that no rent is payable under the tenancy agreement with Tenant DD for January and February 2017. I therefore dismiss the Landlord's claim for unpaid rent for January and February 2017. As no evidence was provided in relation to the service of the application for dispute resolution to Tenant DD, I dismiss the Landlord's claim for compensation with leave to reapply against this Tenant should Tenant DD have caused any loss. As the Parties reached a mutual agreement on the possession of the unit I decline to award recovery of the filing fee to the Landlord.

Settlement Agreement

The Parties mutually agree as follows:

- 1. Tenant GD will move out of the unit no later than 1:00 p.m. February 15, 2017; and**
- 2. These terms comprise the full and final settlement of all aspects of this dispute for both Parties.**

Section 63 of the Act provides that if the parties settle their dispute during dispute resolution proceedings, the settlement may be recorded in the form of a decision or order. Given the mutual agreement reached during the Hearing, I find that the Parties have settled their dispute over possession of the unit as recorded above. To give effect to the agreement I provide an order of possession to the Landlord for the agreed date and time.

Conclusion

I grant an Order of Possession to the Landlord effective 1:00 p.m. on February 15, 2017.

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: February 09, 2017

Residential Tenancy Branch