



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LAKESIDE LAND DEVELOPMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, CNC, MNSD, OLC, ERP, RP, PSF, LRE

Introduction

This hearing was scheduled to consider cross-applications pursuant to the *Residential Tenancy Act* (the “*Act*”).

The tenant seeks:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”) pursuant to section 47;
- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to the landlord to provide services or facilities required by law pursuant to section 65; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

The landlords seek:

- an order of Possession pursuant to section 55.

The landlords did not attend this hearing which lasted approximately 15 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that he served the application for dispute resolution personally on the personal landlord on March 14, 2017. I find that the application was served pursuant to section 89 of the *Act* on that date.

At the outset of the hearing the tenant testified that he has moved out of the rental unit and withdrew the portions of his claim disputing the 1 Month Notice and seeking relief pertaining to an ongoing tenancy.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the tenant entitled to recover all or a portion of the security deposit?

Background and Evidence

The tenant testified that this tenancy began in November, 2016 and he moved out on March 1, 2017. The tenant paid a security deposit of \$425.00 at the start of the tenancy and it is still held by the landlord. The tenant said that he has not provided the landlord with a forwarding address as he has not yet secured accommodations.

Analysis

The landlord did not attend the hearing which was scheduled by conference call at 11:00am. Rule 7.3 of the Rules of Procedure provides that:

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to re-apply.

Consequently I dismiss the landlord's application without leave to reapply.

Section 38 of the *Act* requires the landlord to either return the tenant's security deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy and or upon receipt of the tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award, pursuant to section 38(6)(b) of the *Act*, equivalent to double the value of the security deposit. However, this provision does not apply if the landlord has obtained the tenant's written authorization to retain all or a portion of the security deposit to offset damages or losses arising out of the tenancy as per section 38(4)(a).

The tenant testified that he has not provided the landlord with a forwarding address as at the date of the hearing. I find that the tenant has not yet provided a forwarding address in writing to the landlord. Therefore, the landlord's obligation under the *Act* to return the tenant's security deposit has not started. Once the tenant provides a

forwarding address to the landlord in writing the landlord will then have 15 days to apply for dispute resolution or return the tenant's security deposit.

Conclusion

The landlords' entire application is dismissed without leave to reapply.

The portion of the tenant's application disputing the 1 Month Notice and seeking relief pertaining to an ongoing tenancy is withdrawn.

I dismiss the portion of the tenant's application for return of the security deposit 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: April 12, 2017

Residential Tenancy Branch