



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, LRE, OPT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 62;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70; and
- an order of possession for the rental unit, pursuant to section 54.

The tenant, the landlord and the landlord's agent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord's agent confirmed that she had permission to speak on behalf of the landlord at this hearing. The landlord did not testify at this hearing. This hearing lasted approximately 25 minutes.

The landlord's agent confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application.

The tenant stated that he did not receive the landlord's written evidence package. The landlord's agent confirmed that she did not serve it to the tenant. I informed both parties during the hearing that I could not consider the landlord's written evidence package at the hearing or in my decision because it was not served, as required, to the tenant.

Issues to be Decided

Is the tenant entitled to an order requiring the landlord to comply with the *Act, Regulation* or tenancy agreement?

Is the tenant entitled to an order restricting the landlord's right to enter the rental unit?

Is the tenant entitled to an order of possession for the rental unit?

Background and Evidence

While I have turned my mind to the tenant's documentary evidence and the testimony of both parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claims and my findings are set out below.

The tenant testified that he was locked out of the rental unit on August 13, 2018. He said that he was threatened by the landlord and forced to move when the landlord put his possessions outside the rental unit. He said that he spoke with the police about his possessions and they told him to contact the Residential Tenancy Branch for tenancy issues. He claimed that he is currently living in another unit on a temporary basis but he wants to return to the rental unit despite the fact that the landlord will not let him return.

The landlord's agent testified that the tenant left the rental unit and due to altercations with his friends who were living with him in the rental unit, his friends put his possessions outside, not the landlord. The landlord's agent maintained that the tenant cannot return to the rental unit because the landlord's family members are currently living there.

Analysis

During the hearing, both parties agreed that the tenant will pick up his television from the landlord at the rental unit at 2:00 p.m. on August 31, 2018. Accordingly, I order the landlord to return the tenant's television to him.

I dismiss the tenant's application for an order of possession for the rental unit, without leave to reapply. The landlord has family members currently residing in the rental unit. Since these are third parties that are not parties to this application, I cannot issue an order of possession to remove them from the rental unit.

Since the tenancy has ended and the tenant is not entitled to an order of possession to return to the rental unit, I dismiss the remainder of the tenant's application without leave to reapply, as those orders can only be made during an ongoing tenancy.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

I order the landlord to return the tenant's television to the tenant at 2:00 p.m. on August 31, 2018.

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: September 04, 2018

Residential Tenancy Branch