



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AAT, FFT, LAT, LRE, OLC, OPT, PSF

Introduction

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

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an Order of Possession of the rental unit pursuant to section 54;
- an order suspending or setting conditions on the landlords right to entry pursuant to section 70;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties confirmed that they had exchanged their documentary evidence.

Issue(s) to be Decided

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

Is the tenant entitled to an order compelling the landlord to act in accordance with the *Act*, regulation or tenancy agreement?

Is the tenant entitled to an order to compel the landlord to provide services and facilities agreed to but not given?

Is the tenant entitled to an order allowing her access to the unit?

Is the tenant entitled to an order that would suspend or place conditions on the landlords' right to entry?

Is the tenant entitled to the recovery of the filing fee for this application?

Background and Evidence

The tenant gave the following testimony. The tenant testified that she and the landlord entered into a tenancy agreement on May 8, 2019. The tenant testified that she paid a security deposit of \$767.50 for a one year fixed term tenancy that was to commence on September 1, 2019. The tenant testified that two days later the landlord changed his mind and that he returned the deposit to her. The tenant testified that she tried her best to find another place but was unable to do so. The tenant testified that she has a trip planned for the summer and wanted to get this done before leaving. The tenant testified that she was unable to find new accommodations so the original agreement should be in effect.

The landlord gave the following testimony. The landlord testified that the tenant only wanted to use his address so that she could register her child in the school that falls in their catchment. The landlord testified that after the tenant signed the papers on May 8, 2019 she asked for items that she knew was not in the unit such as a dishwasher and parking in the driveway. The landlord testified that he didn't want to fight with the tenant so he asked her to end the agreement and pick up her deposit on May 10, 2019; which she did. The landlord testified that the tenant was so happy that she offered to bring him back a gift from China.

The landlord testified that on May 22, 2019 the tenant contacted him and that despite the fact they had agreed not to enter into a tenancy, she wished to do so to ensure her child was registered with the school in the catchment. The landlord testified that the tenant asked to have her mail from the bank sent to the home as a secondary source of proof to the school as there were issues with verifying if the tenant lived in the catchment. The landlord testified that he believes the tenant is only wishing to use his address to be able to register her child in the catchment for this area and is not particularly interested in the unit itself. The landlord testified that he feels that the tenant deceived him throughout their dealings.

Analysis

The central issue before me is whether there is a valid tenancy in place. On May 10, 2019 both parties agreed that the landlord returned the security deposit. The landlord was very clear that the tenant was quite content with having her deposit being returned and that the parties both agreed to move on. I do not agree with the tenants' submission that the tenancy agreement was still in place despite having her deposit returned. I find her submission unreasonable, illogical and unenforceable. I find that the parties both equally agreed to end their relationship on May 10, 2019 and therefore there is not a valid tenancy in place and the tenant is not entitled to an order of possession to the unit. As the tenants total application refers to issues if the tenancy were to be in place, and since I've found that there is no valid tenancy between the parties; I hereby dismiss the tenants' entire application without leave to reapply.

Conclusion

The tenants' application is dismissed in its entirety without 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: June 27, 2019

Residential Tenancy Branch