



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, for a monetary order for unpaid rent or utilities, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenant.

Both parties appeared gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary and Procedural Issue

In this case the landlords have listed HS as a tenant in their application; however, HS was a roommate of the tenant and was not on the signed tenancy agreement. I find HS is not a tenant under the Act. I find HS was an occupant. Occupants have no legal rights or obligation under the Act.

Issues to be Decided

Are the landlords entitled to an order of possession for unpaid rent?

Are the landlords entitled to a monetary order?

Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The landlord testified that the tenant has not paid any rent for December 2019, January, February, and March 2020. The landlords seek to recover unpaid rent in the amount of \$4,000.00.

The tenant testified that they have not lived in the rental unit since the end of November 2019. The tenant stated that they told the landlord on September 8, 2019 that they would be vacating the property when they returned from their month and a half trip. The tenant stated that they had a roommate staying at the property; however, they left in November 2019.

The landlord argued that the tenant never informed them that they were ending the tenancy. The landlord stated that they saw the tenant's roommate in the last few days at the rental premise.

The landlord submits that the 10 Day Notice to End Tenancy for Unpaid Rent was served in person, on the tenant's roommate, on December 24, 2019, which was witnessed. The landlord submits the tenant did not vacate at the end of November 2019, nor has given notice to end the tenancy.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant testified that they are not living at the rental unit. I find that the landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective Immediately. If the tenant provided false testimony on this issue, this order may be filed in the Supreme Court and enforced as an order of that Court.

In this case, I am not satisfied that the tenant has ended the tenancy in accordance with section 45 of the Act. The evidence of the tenant was they told the landlord that they would be leaving at the end of November 2019. I find that does not meet the requirements of section 52 of the Act.

Further, the tenant's roommate was served with the 10 Day Notice to End Tenancy for Unpaid Rent, in person on December 24, 2019. This does not support the tenant's

evidence that they and their roommate vacated the rental unit at the end of November 2019. I find the tenant has breached section 45 and 26 of the Act and this caused losses to the landlord. I find the landlords are entitled to recover unpaid rent in the amount of **\$4,000.00**.

I find that the landlords have established a total monetary claim of **\$4,100.00** comprised of unpaid rent, and the \$100.00 fee paid by the landlords for this application.

I order that the landlords retain the security deposit of \$450.00 in partial satisfaction of the claim and I grant the landlords an order pursuant to section 67 of the Act, for the balance due of **\$3,650.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The landlords are granted an order of possession and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: March 22, 2020

Residential Tenancy Branch