



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT, FFT

Introduction

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

- an Order of Possession of the rental unit pursuant to section 54; and
- authorization to recover her 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. The parties acknowledged 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 the recovery of the filing fee for this application?

Background and Evidence

The tenant gave the following testimony. The tenant testified that the one-year fixed term tenancy began on May 5, 2019. The tenant testified that the monthly rent of \$2800.00 is due on the 5th of each month. The tenant testified that in early March she was staying with family recovering from the flu and had not been at the unit for the first week of the month. The tenant testified that on March 6, 2020 she sent a text message to the landlord inquiring as to why he had not inquired about the rent. The tenant testified that she was told by the landlord that he changed the locks and that he would not be letting her back into the unit. The tenant testified that all rent had been paid up until March 5, 2020 and that the landlord changed the locks without justification. The

tenant testified that her belongings are still in the unit. The tenant requests an order of possession to the unit to reside for the remaining month of her lease.

The landlord gave the following testimony. The landlord testified that the male tenant was arrested in the unit after \$200,000.00 in stolen cash and jewellery was found in the unit. The landlord testified that the tenant did not pay rent for the months of February and March. The landlord testified that several neighbours advised him that the unit had not had anyone living in there for several months. The landlord testified that he made numerous attempts to contact the tenant by text and phone, but to no avail.

The landlord testified that he served Ten Day Notice to End Tenancy for Unpaid Rent and a One Month Notice to End Tenancy for Cause by posting on the door and by registered mail on February 17, 2020; and again, did not receive any response from the tenant. The landlord testified that based on all of the history, specifically the criminal activity, he was concerned that the property had been abandoned. The landlord testified that he was worried about who had access to the unit and changed the locks. The landlord testified that all the tenant's belongings are in the unit and he will gladly make himself available to the tenant to return those items. The landlord testified that he just wants to move on from this situation and feels the tenant should not be entitled to the unit again especially since she hasn't paid rent for several months, that the tenancy is coming to an end, and the criminal activity on his property.

Analysis

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

The tenant did not dispute the landlords claim of illegal activity in the unit and the subsequent criminal charges against her roommate. The parties further agreed that the tenancy is coming to an end in May 2020 and that both parties wish to move on. The landlord provided sufficient supporting and corroborating documentation from neighbours to show that the property was abandoned, and that rent had not been paid for several months. In addition, the tenant did not provide a compelling or reasonable explanation for the extended gaps for the lack of communication on her part. I find that the landlord took reasonable and prudent steps to secure the property and to ensure the safety of his property and to mitigate any losses. Based on the above, I find that the tenant has not provided sufficient evidence to grant her an order of possession,

accordingly; I dismiss that portion of her application. As the tenant has not been successful in this application, she must bear the cost of the filing fee.

The landlord stated numerous times during the hearing that the tenant is free to come pick up her belongings whenever she wants. The landlord testified that he welcomes the opportunity for her to remove all her belongings so that he can move on from this situation.

Conclusion

The tenant's 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: April 03, 2020

Residential Tenancy Branch