



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPN, FF

Introduction

This hearing dealt with the landlords' application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit based upon a tenant's notice of their intent to vacate; and
- recovery of the filing fee.

The landlords and tenant attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The parties confirmed receiving the other's evidence.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Are the landlords entitled to an order of possession of the rental unit?

Are the landlords entitled to recovery of the filing fee?

Background and Evidence

The written tenancy agreement submitted by the landlords showed that this month-to-month tenancy began on October 15, 2019, monthly rent is \$1,275, and the tenants paid a security deposit of \$1,275.

In support of their application, the landlord, LT, submitted that the tenant, TP, sent her a text message on April 15, 2020, stating that the tenants were ending the tenancy and vacating the rental unit by May 15, 2020.

The landlord submitted that they accepted the tenants' notice and secured another tenant, who was set to move into the rental unit on May 15, 2020. Instead, the tenants have not vacated, and her new tenant has been forced to find a temporary living arrangement.

As the tenants have not vacated pursuant to their text message notice, the landlords seek an order of possession of the rental unit.

The landlords submitted a copy of the body of the text message sent to them by TP.

Tenant's response-

The tenant submitted that they have not provided the landlords a written and signed notice to end their tenancy, as required by the written tenancy agreement.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 44(1)(a)(i) of the Act provides that a tenancy ends when a tenant gives notice to the landlord.

As it pertains to a tenant's notice to end the tenancy, section 45(4) requires the notice to end the tenancy given under this section comply with section 52 [form and content of notice to end tenancy].

Section 52 of the Act states that in order to be effective, a notice to end the tenancy must be in writing and must be signed and dated by the tenant giving the notice, give the address of the rental unit, and state the effective date.

In the case before me, I find the tenant's text message communication did not comply with section 52 of the Act, as it was not signed or give the rental unit address. I was also not provided sufficient evidence to determine whether the text message contained a date.

As the tenants did not provide a notice to end the tenancy in the form and content as described above, I find the text message notice was not valid or enforceable.

I therefore find the landlords submitted insufficient evidence to support their application and it is dismissed in its entirety, without leave to reapply.

As a result, I do not grant the landlords an order of possession of the rental unit and the tenancy continues until it may otherwise end under the Act.

Conclusion

The landlords' application is dismissed due to insufficient evidence.

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: May 26, 2020

Residential Tenancy Branch