



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PCPM ITF PANDORA COOK APARTMENTS JV
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OL

Introduction

This hearing dealt with the landlord's application pursuant to the Residential Tenancy Act (the Act) for an Order of Possession pursuant to section 56.1 of the Act.

Counsel for the landlord, two agents for the landlord and counsel for the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties agree that the tenant received, through his counsel, the landlord's application for dispute resolution and evidence. I find that the tenant was served with the landlord's application for dispute resolution and evidence in accordance with section 88 and 89 of the *Act*.

Preliminary Issue- Amendment

Both parties agree that the subject rental address is an Avenue and not a Street as stated in the landlord's application for dispute resolution. Pursuant to section 64 of the *Act*, I amend the landlord's application for dispute resolution to state same.

Preliminary Issue- Possession

Both parties agree that the tenant does not have access to the subject rental property and that the subject rental property does not have water, electricity or a working sewer.

Counsel for the landlord submitted that the landlord currently has possession of the subject rental property which is not fit for human habitation. Both parties agree that the landlord changed the locks to the subject rental property and that the tenant has not had access since February 1, 2020 but that the landlord allowed the tenant to complete a walk through on May 26, 2020.

Counsel for the tenant submitted that at no time has the tenant surrendered possession of the subject rental property and still has personal property at the subject rental property. Counsel for the tenant submitted that the tenant still considers the subject rental property his home and disputes the landlord's right to restrict his access.

I find that the landlord currently has possession of the subject rental property because the landlord currently controls who is and who is not permitted at the subject rental property. I make no finding on the landlord's right to that possession or whether the landlord gained possession to the subject rental property in accordance with the *Act*, as that questions has not been properly put before me.

Since I have found that the landlord has possession of the subject rental property, I dismiss the landlord's claim for an Order of Possession under section 56.1 of the *Act* because the issue raised in the application is no longer applicable as the landlord already has possession.

The tenant has not submitted an application for dispute resolution contesting the landlord's restriction of access to the subject rental property, I therefore make no findings on the matter.

Conclusion

The landlord's application for dispute resolution is dismissed.

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 01, 2020

Residential Tenancy Branch