



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession and to recover the cost of the filing fee.

The landlords attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlords testified the Application for Dispute Resolution and Notice of Hearing were given in person on June 17, 2020. I find that the tenants have been duly served in accordance with the Act.

Preliminary issue

At the outset of the hearing the landlords stated that the tenant DD is the sister of the female landlord. The landlords stated that their sister was homeless, due to domestic violence and they moved her from the area she was living and provided her with the rental unit. The landlords stated that the tenant DD moved in her boyfriend DM. The landlord stated DM is not a tenant.

As DM was not a tenant under the verbal agreement and moved in after the tenancy commenced, I find DM is not a tenant under the Act and is simply an occupant has no legal rights or obligation under the Act. I have removed DM for the style of cause.

Issue(s) to be Decided

Are the landlord's entitled to an order of possession?

Background and Evidence

The landlords testified that on December 11, 2019, the tenant DD signed a mutual agreement to end the tenancy effective March 31, 2020. The landlords stated that the tenant has failed to move and at the time they were unable to apply for an order of possession due to the Ministerial Order.

The landlords testified that since the tenancy ended under the mutual agreement, they have received threats from the tenant stated that she would burn down rental unit and their personal residence. The landlords stated that these threats were reported to the police.

The landlords testified that since April the tenant has not paid any rent up to the date of this hearing. The landlord stated that the tenant financial circumstance did not change and in fact they were receiving more money from the government.

The landlords testified that the tenant has also threatened to take items from the rental property, in leu of property the tenant has stored at the landlords. The landlord stated the tenant's items were only stored at their residence because the tenant was homeless at the time. The landlord's want the tenant to retrieve these items by the end of July 2020.

Analysis

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

In this case, although the landlords would be entitled to an order of possession under section 56 of the Act as threats to burn down a residence is serious and threats of theft from the property; however, I find the tenancy had already ended as the mutual agreement signed by the tenant ended the tenancy on March 31, 2020. I find the tenant is overholding the premise as an occupant.

While I accept the landlords were not entitled to seek an order of possession at that time due to the Ministerial Order; however, that order has now been rescinded and

allows me to issue an order of possession based on the mutual agreement to end the tenancy. I find this not prejudicial to the tenant as the tenant signed the mutual agreement to end the tenancy and the details of the landlord's application show they were seeking an order of possession based on this agreement and subsequent threats made.

As the tenant has not paid any rent to the landlords for occupancy since April 2020, I find the landlords are entitled to an order of possession effective **two (2) days** after service on the tenant, pursuant to section 55 of the Act. This order must be served on the tenant and may be filed in the Supreme Court for enforcement. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I further find the landlords are entitled to a monetary order in the amount of \$100.00 to recover the cost of the filing, pursuant to section 67 of the Act. Should this amount remain unpaid when the tenant vacates the premise, and if a security deposit was paid the landlords are entitled to keep this amount from the security deposit, pursuant to section 38(3) of the Act in full satisfaction of the award.

As the tenant has items stored at their sister's home, the landlord, and threats have been made by the tenant to steal items in lieu of those belongings, I find it appropriate to make the following orders.

I order the tenant that they are prohibited from removing items for the rental property that do not belong to them.

I further order the tenant to attend at the landlord's residence, no later than 4PM on July 31, 2020 to retrieve their personal belongings. The tenant is to give the landlords at least 24 hours notice.

Conclusion

The landlords' application for an order of possession is granted. The tenant is ordered not to remove any items from the rental premise that they do not own. The tenant is ordered to retrieve their personal belongings from the landlord no later than July 31, 2020.

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: July 17, 2020

Residential Tenancy Branch