



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing dealt with a tenant's application for compensation for damages or loss under the Act, regulations or tenancy agreement. Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

The tenant had named two landlords in making this Application for Dispute Resolution: the name of an individual and the second being the name of the landlord's sole proprietorship. I heard the property is owned by two individuals and the individual landlord named in this Application for Dispute Resolution is one of the property owners and entered into the tenancy agreement with the tenant. As such, I was satisfied the tenant correctly identified the individual landlord and the style of cause was amended with consent of both parties to remove the name of the landlord's sole proprietorship.

I confirmed the tenant served the landlord with his hearing documents via registered mail sent on June 25, 2020.

The landlord submitted evidence to the tenant, via email, and to the Residential Tenancy Branch on the day of the hearing. The tenant questioned service of the late materials and the relevance. The landlord was willing to proceed without his evidence being reviewed and the landlord was giving the opportunity to provide his relevant evidence orally.

Issue(s) to be Decided

Is the tenant entitled to compensation against the landlord, as claimed?

Background and Evidence

The parties were in agreement that they entered into a written tenancy agreement for a tenancy set to commence on June 19, 2020 on a month to month basis. The tenant was required to pay rent of \$800.00 on the first day of every month. The tenant paid a security deposit of \$400.00 and a \$200.00 pet damage deposit. The landlord did not require the tenant to pay any rent for the days in June 2020 and the tenant paid the landlord July 2020 rent in advance. The rental unit was a bachelor type unit and there was furniture in the rental unit when the tenant was given possession of the rental unit, including a table, even though the written tenancy agreement did not indicate the rental unit was furnished.

The parties provided consistent testimony that on June 22, 2020 the tenant started moving his possessions into the rental unit with the assistance of his mother. The tenant did not want the table in the rental unit and he permitted his mother to remove it from the property and it was put in his mother's vehicle. The landlord saw this and came outside asserting the tenant was stealing the landlord's table and the landlord informed the tenant he was no longer welcome at the property. The table was returned to the landlord. The tenant left briefly and then returned to the property to find the landlord placed the tenant's possessions on the porch of the property. The tenant removed his possessions from the porch and proceeded to file this Application for Dispute Resolution seeking compensation.

The landlord stated that when the tenant asked about removing the fridge or oven from the rental unit the tenant was instructed to put the unwanted items on the porch so when the table was put in the tenant's mother's van the landlord considered the tenant to be stealing. The tenant tried to justify the removal of the table from the property by submitting he considered the table to be abandoned furniture of a previous tenant since the written tenancy agreement did not indicate furniture was provided by the landlord. I informed the parties that it was unnecessary for me to consider whether the tenant tried to steal from the landlord or whether there was cause for ending the tenancy and the relevant issue before me was whether the landlord ended the tenancy in a lawful manner.

The tenant seeks compensation of \$4800.00. The tenant explained that he arrived at this amount by multiplying the monthly rent of \$800.00 by six months, the number of months he expected to occupy the rental unit while awaiting repairs to be made to his condominium.

As for the tenant's losses, the tenant stated he actually profited from the end of this tenancy as he found a larger rental unit for less rent (\$650.00 per month) starting on July 1, 2020.

The tenant stated he would withdraw any entitlement to compensation if the landlord acknowledged that he cannot unlawfully evict a tenant, especially when there was a ban on evictions in place at the time due to the pandemic, and remove a tenant's possessions from the rental unit. The tenant also indicated he would be satisfied if there was a written record of the landlord's unlawful eviction.

The landlord responded by stating he knows it was wrong to evict the tenant in the manner he did and remove the tenant's possessions from the rental unit.

Analysis

The Act applies to tenancy agreements entered into by a landlord and a tenant concerning the tenant's right to occupy a rental unit. Parties cannot avoid the Act.

As provided under section 16 of the Act, the rights and obligations of a landlord and tenant start from the time the tenancy agreement is entered into, even if the tenant does not occupy the rental unit.

In this case, the parties entered into a tenancy agreement on June 19, 2020 and both parties became bound to fulfill their obligations and became entitled to the rights associated to having a tenancy from that date forward. According to the tenancy agreement, the tenancy was set to commence on June 19, 2020 which means the tenant was entitled to possession of the rental unit starting on June 19, 2020.

To bring the tenancy to an end, it must be done in a manner that complies with the Act. In order for a landlord to end a tenancy, the landlord must serve the tenant with a notice to end tenancy, in the approved form, under one of the provisions provided under the Act; or, the landlord may make an Application for Dispute Resolution under section 56 of the Act in urgent and severe circumstances to obtain an order ending the tenancy early from an Arbitrator.

The Act also provides that a landlord may not seize the tenant's personal property or take possession of the rental unit without a court order (Writ of Possession). A court order is obtained after obtaining an Order of Possession from the Residential Tenancy Branch.

In this case, the tenant was not ended in a manner that complies with the Act. The landlord did not issue a notice to end tenancy to the tenant or make an Application for Dispute Resolution seeking an order ending the tenancy. Nor, did the landlord obtain an Order of Possession or Writ of Possession yet he removed the tenant's possessions from the rental unit.

Despite the landlord's attempts to justify his actions by describing what he believed to be stealing, such action by a tenant does not form a basis to violate the Act and not seek on of the legal remedies available to the landlord under the Act.

In light of the above, I find the landlord violated the Act by unlawfully ending the tenancy and denying the tenant possession of the rental unit and removal of the tenant's possessions from the rental unit without. By way of this decision, the landlord is now considered to be on notice that in order to end a tenancy and take possession of the rental unit the landlord is required to do so in a manner that complies with the Act and that further violations of the Act may be a basis for administrative penalties.

The tenant waived entitlement to any compensation, having been satisfied by the landlord's acknowledgment of his wrongdoing and this decision putting the landlord on notice as to his violations of the Act, and I make no monetary award to the tenant with this decision.

Conclusion

This matter was resolved by the landlord's acknowledgement of an unlawful eviction and this decision putting the landlord on notice of his unlawful eviction of the tenant, and the tenant withdrew his request for compensation. Accordingly, I consider this matter resolved.

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: October 14, 2020

Residential Tenancy Branch