



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession due to a mutual agreement to end the tenancy, and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord attended the hearing, gave affirmed testimony and was accompanied by Legal Counsel. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no for the tenant joined the call.

The landlord's agent testified that the tenant was personally served with the Application for Dispute Resolution, notice of this hearing and evidentiary material on November 7, 2020 and has provided an acknowledgement of receipt signed by the tenant, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

At the commencement of the hearing the landlord's agent advised that the surname and first name of the tenant contained in the Application for Dispute Resolution have been incorrectly exchanged, and I amended the application. The frontal page of this Decision reflects that amendment.

All evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the parties mutually agreed to end the tenancy?

Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on August 1, 2019 and expired on July 31, 2020, and the tenant still resides in the rental unit. No written tenancy agreement was prepared. The landlord had purchased the home from the tenant, and the tenant, who was one of the sellers wished to remain and the parties agreed that rent in the amount of \$1,000.00 per month was payable on the 1st day of each month, and that the tenancy would end on July 31, 2020.

No security deposit or pet damage deposit was collected from the tenant, and the tenant is currently in arrears of rent the sum of \$6,000.00. The tenant has not paid rent for August, 2020 through January, 2021.

The parties signed a Mutual Agreement to End Tenancy on August 1, 2019 effective July 31, 2020, and the landlord seeks an Order of Possession. A copy of the Contract of Purchase and Sale as well as the Mutual Agreement to End Tenancy have been provided as evidence for this hearing.

SUBMISSIONS OF LEGAL COUNSEL:

Legal Counsel for the landlord submits that this was a standard rent-back arrangement. The tenant took possession and entered into a tenancy agreement, albeit not in writing, and signed a mutual agreement to end the tenancy.

Analysis

I have reviewed the evidentiary material, and I accept the undisputed testimony of the landlord's agent that the tenant agreed in writing to vacate the rental unit by July 31, 2020 but failed to do so, and the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days' notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlord as against the tenant in that amount.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days' notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00.

This order is final and binding and may be enforced.

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: January 25, 2021

Residential Tenancy Branch