



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Meg Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPT

Introduction

This hearing was convened in response to an application by the Tenant for an order of possession pursuant to section 54 of the *Residential Tenancy Act* (the “Act”).

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Parties confirm receipt of each other’s evidence. The Tenant is satisfied that they have had sufficient time to review the Landlord’s evidence. The Parties confirm that they are not using a recording device for the hearing.

Issue(s) to be Decided

Is the Tenant entitled to an order of possession?

Background and Evidence

The Landlord states that the unit for which the Tenant seeks an order of possession was rented to another tenant for a tenancy start date of September 1, 2022. The Landlord states that the tenancy agreement for this other tenant was signed on August 9, 2022. The Tenant accepts, given the location of the unit and the state of rental availabilities, that the unit has been rented.

Analysis

Section 54(1) of the Act provides that a tenant who has entered into a tenancy agreement with a landlord may request an order of possession of the rental unit by making an application for dispute resolution. Whether or not the Tenant entered into a valid tenancy agreement with the Landlord, based on the undisputed evidence that the unit has been filled with another tenant and in order not to be unfair to this other tenant I find that the Landlord cannot provide the unit to the Tenant. I dismiss the Tenant's application. The Tenant remains at liberty to make a claim for compensation should the Tenant have suffered a loss in relation to a breach of a tenancy agreement by the Landlord.

Conclusion

The application 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 Act.

Dated: September 20, 2022

Residential Tenancy Branch