



Dispute Resolution Services

Residential Tenancy Branch

DECISION

Dispute Codes: ET FFL

Introduction

The landlord sought an order ending the tenancy and an order granting the landlord possession of the rental unit pursuant to an application under section 56(1) of the *Residential Tenancy Act* ("Act").

The landlord also sought to recover the cost of the application filing fee pursuant to section 72 of the Act.

A teleconference dispute resolution hearing was held on February 10, 2023, starting at 9:30 AM. The landlord, her representative, and tenant T.W. (who does not reside in the rental unit) were present at the beginning of the hearing.

At 9:36 AM, tenant C.I. joined the hearing by phone. The landlord's agent had already explained the details of the tenancy to me, and tenant T.W. confirmed these facts within the first five minutes of the hearing. As a result, the matter was resolved by the time tenant C.I. arrived. Despite tenant C.I.'s attempts to continue the conversation, I ended the hearing at 9:37 AM as the substantive issue had already been resolved.

It should be noted that a dispute resolution hearing commences at the scheduled time unless otherwise set by the arbitrator (see Rule 7.1 of the Rules of Procedure).

Preliminary Issue: Tenancy Has Ended

The landlord's agent and the tenant T.W. confirmed that the tenant C.I. had a moving truck on February 6, 2022 and moved out of the rental unit on that date. Section 44(1) of the Act states that a tenancy ends when a tenant vacates the rental unit.

Because the tenant vacated the rental unit four days ago the issue of whether the landlord is entitled to an order of possession and an order ending the tenancy is now moot. There is, in other words, no application for such an order to be considered.

That said, because the landlord's application has merit on a *prima facie* basis, she is entitled to recover the cost of the application filing fee. Pursuant to section 38(4)(b) of the Act the landlord is thus entitled to retain \$100.00 of the tenants' security deposit to pay for the cost of the application filing fee.

While I was unable to provide a precise answer to the agent's question about obtaining the keys to the rental unit or accessing the rental unit in order to turn on the heat, a landlord is (regardless of whether a tenant returns the keys) legally entitled to change the locks to a rental unit once a tenant vacates the rental unit and a condition inspection report has been completed.

The landlord may contact the Residential Tenancy Branch for additional information concerning her and the tenant's rights and obligations after a tenancy ends.

Conclusion

The application is dismissed.

This decision is final and binding, except where otherwise permitted under the Act, and is made on authority delegated under section 9.1(1) of the Act.

Dated: February 10, 2023

Residential Tenancy Branch