



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DEVON PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Code OLC

Introduction

This hearing was convened as a result of an Application for Dispute Resolution made by KRL, pursuant to the Residential Tenancy Act (the Act). The Tenant requests an order that the Landlord comply with the Act, Residential Tenancy Regulation (the Regulations), and/or the tenancy agreement.

KRL attended the hearing on his own behalf. The Landlord was represented at the hearing by KC and TK, agents. KRL, KC, and TK provided a solemn affirmation at the beginning of the hearing.

KRL confirmed the application was not made on behalf of OE, and that SK, his son, is a minor. Therefore, I find it appropriate to remove SK as a party, pursuant to section 64(3) of the Act. Although the application was made on behalf of RKL only, a copy of the decision will be provided to OE.

KRL testified that the Notice of Dispute Resolution Proceeding package was served on the Landlord by registered mail. KC acknowledged receipt on behalf of the Landlord. Therefore, pursuant to section 71 of the Act, I find these documents are sufficiently served for the purposes of the Act.

KC testified the evidence upon which the Landlord intends to rely was not served on the KRL. However, the evidence submitted to the Residential Tenancy Branch consisted of a one-page document the Tenant confirmed during the hearing that he signed. Therefore, I find the Tenant is not prejudiced by my consideration of this document.

The parties were in attendance and were prepared to proceed. The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue to be Decided

Is KRL entitled to an order that the Landlord comply with the Act, Regulations, and/or the tenancy agreement?

Background and Evidence

The parties agreed the fixed-term tenancy began on January 1, 2022 and was expected to continue to December 31, 2022. Rent of \$1,750.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$875.00, which the Landlord holds. A copy of the signed tenancy agreement was submitted into evidence.

KRL testified that on November 14, 2022, he sent an email to the Landlord asking to end the tenancy. KRL testified that when he went to the office, he was asked to sign a One Tenant Vacating form, which he did on November 18, 2022. A copy of the form was submitted into evidence.

The One Tenant Vacating form was also signed by OE, KRL's former roommate, on November 21, 2022. The form indicated that OE would remain in the rental unit under the same terms as set out in the original tenancy agreement. The form also confirms the Landlord is entitled to retain the security deposit and that KRL will not make a claim against it. Soon after signing the form, KRL asked the Landlord to withdraw it as he believed that his share of the security deposit should be returned to him by the Landlord.

KRL confirmed that the main issue is to recover his half of the security deposit from the Landlord. However, KC testified that OE sent KRL an e-transfer for his share of the security deposit but that it was not accepted. KRL acknowledged that he received the e-transfer but testified that OE cancelled it when he learned that KRL had made this application to recover his share of the security deposit from the Landlord.

Analysis

Section 62(3) of the Act confirms the director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that the Act applies.

In this case, I find that KRL and OE signed a One Tenant Vacating form which released KRL from the tenancy agreement and confirmed OE will continue to reside in the rental unit on the same terms as set out in the tenancy agreement. I also find the One Tenant Vacating form confirms that KRL will not make a claim for the security deposit. I also accept that OE attempted to return KRL's share of the security deposit, which should have been accepted by KRL.

While I accept that KRL is no longer a tenant of the Landlord, I find there is insufficient evidence before me to conclude the Landlord is obligated to return any portion of the security deposit to KRL. I find the One Tenant Vacating form is not ambiguous and parties are presumed to have understood the implications of any documents they sign. Any portion of the security deposit to which KRL may be entitled should be recovered from OE.

Considering the above, I find that the application is dismissed without leave to reapply.

Conclusion

The application is dismissed without leave to reapply.

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: February 3, 2023

Residential Tenancy Branch