



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC, MNDCT, AAT, LRE, LAT, RPP, AS, OLC, FFT

Introduction

This hearing dealt with the cross applications pursuant to the *Residential Tenancy Act* (the *Act*) for:

The landlord applied for:

- an Order of Possession pursuant to section 55;

The tenant applied for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70;
- an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Preliminary Issue – Notice to End Tenancy For Cause

At the outset of the hearing both parties confirmed there isn't a One Month Notice to End Tenancy for Cause for me to consider, accordingly; I dismiss this portion of the tenant's application.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the tenant entitled to a monetary order as compensation?

Should conditions be made to suspend or restrict the landlords right to enter the unit?

Should the tenant and their guests be given access to the unit?

Is the tenant entitled to an order to change the locks?

Should an order be made to have the landlord return the tenants personal property?

Should an order be made to compel the landlord to comply with the Act, regulation or tenancy agreement?

Is the tenant entitled to sublet or assign this tenancy?

Is the tenant entitled to the recovery of the filing fee for this application?

Background and Evidence

JR gave the following testimony. JR testified that this tenancy with MM only, began on February 1, 2021 with a monthly rent payable of \$700.00 due on the first day of the month. JR testified that MM is the only listed tenant on the tenancy agreement. JR testified that he and MM signed a Mutual Agreement to End Tenancy on October 23, 2023 to take effect at 9:00 a.m. on October 25, 2023. JR testified that MM moved out on October 25, 2023. JR testified that ND is not a tenant, and that the application should be dismissed. JR requests an order of possession.

ND testified that she has been a roommate/tenant of this unit since the start. ND testified that she has paid half the rent during that time. ND testified that she is listed as a tenant with Social Services. ND would like to be added to the tenancy agreement so that she can continue living in the unit. ND also requests a monetary order of \$3050.00 to cover the "illegal entries" the lack of access to the unit and the filing fee for this application. ND also seeks conditions for the landlord to access the unit and that she be provided a door key and key to the mailbox.

Analysis

JR provided documentation that the tenancy agreement only has MM listed as the tenant. ND was unable to provide sufficient evidence of ever paying rent prior to the agreement to end tenancy between JR and MM. In addition, the tenant was unable to provide documentation from Social Assistance that she was a tenant in the subject unit.

Order of possession for the landlord

55 (2)A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(d)the landlord and tenant have agreed in writing that the tenancy is ended.

I find that MM is the only tenant for the subject unit and that he and the landlord mutually agreed to end the tenancy. I find that the landlord is entitled to an order of possession pursuant to section 55 of the Act as noted above.

ND is not a tenant , accordingly; I dismiss the entirety of her application without leave to reapply. Although ND brought forward this application, her name is not listed as a tenant based on my findings. However, for absolute clarity for both parties, the order of possession will state that the “tenant and all occupants” must vacate the unit two days after being served the order of possession. This will apply to the tenant and anyone occupying the unit, including ND.

Conclusion

The landlord is granted an order of possession.

The tenant’s application is dismissed in its entirety 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: January 22, 2024

Residential Tenancy Branch