



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, OPB, MNSD, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution.

The Landlord filed her Application requesting an order of possession based on cause and breach of the tenancy agreement, and to recover the filing fee for the Application.

The Tenant filed his Application requesting a monetary order for return of the security deposit.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

Is the Landlord entitled to the relief sought in her Application?

Is the Tenant entitled to the monetary order requested?

Background and Evidence

The Landlord testified that she had served the Tenant on March 2, 2010, with a one month Notice to End Tenancy alleging cause and breach of the tenancy agreement (the "Notice"). The Notice indicated March 31, 2010, as the effective end date.

The Tenant testified that he was actually served with the Notice on March 8, 2010.

The Landlord and the Tenant both acknowledged that the Tenant had vacated the rental unit on March 31, 2010.

The Tenant testified that the Landlord did not perform an incoming or outgoing condition inspection report. This was not disputed by the Landlord.

The Tenant testified he sent the Landlord a written copy of his forwarding address on April 1, 2010, and he did not sign over a portion of the security deposit to the Landlord.

The Landlord testified she received the forwarding address of the Tenant in the first week of April. She did not recall the exact date she received it.

The Landlord filed her Application on April 23, 2010, however, she did not make a claim to keep the security deposit, nor did she request a monetary order. The Landlord had made a note in the description of her Application that she wanted one month of rent from the Tenant (\$700.00) because he moved out without giving her "30 days" notice.

Analysis

Based on the foregoing, the testimony and evidence, and on a balance of probabilities, I find as follows:

I dismiss the Application of the Landlord. She was requesting an order of possession for the rental unit 23 days after the Tenant moved out, and therefore, an order of possession is not appropriate. I also find that the Tenant moved out due to the Notice to End Tenancy he was given, and therefore, the Landlord is not entitled to one month of rent for lack of notice.

I allow the Application for Dispute Resolution of the Tenant. Under section 38 of the Act the Landlord had 15 days from the date of receiving the forwarding address of the Tenant to file a claim to keep the security deposit. The Landlord did not claim to keep the deposit.

Under section 38 of the Act, I must order the Landlord to pay the Tenant double the security deposit and interest, although no interest was payable in 2009 or 2010.

Therefore, I find that the Tenant has established a total monetary claim of **\$700.00**, comprised of double the \$350.00 security deposit paid. I grant the Tenant an order under section 67 for the balance due of \$700.00. This order must be served on the

Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

As the Landlord appears to have little understanding of her rights and obligations under the Act, I am sending her a copy of a guidebook to the Act.

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: June 16, 2010.

Dispute Resolution Officer