



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes DRI, CNL, CNR, LAT, FF, O

Introduction

This hearing dealt with cross applications. The tenants have filed to dispute an additional rent increase, cancel a Notice to End Tenancy for Landlord's Use of Property, cancel a Notice to End Tenancy for Unpaid Rent, to authorize the tenants to change the locks, recovery of the filing fee and other. The landlord has filed for an order of possession for unpaid rent, a monetary order for unpaid rent, money owed or compensation for damage or loss and recovery of the filing fee. Both parties participated in the conference call hearing.

Issues to be Decided

Is either party entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy started on June 25, 2010 with monthly rent of \$1500.00 and the tenant paid a security deposit of \$725.00. On August 31, 2010 the landlord served the tenant with a Notice to End Tenancy for Cause but then withdrew this notice on September 3, 2010. On September 30, 2010 the landlord served the tenant with a Notice to End Tenancy for Landlord's Use of Property. On October 5, 2010 the landlord served the tenant with a Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenants owe rent for the month of October 2010 in the amount of \$1500.00. The tenants have since vacated the rental unit after the utilities, which were included in the rent, were disconnected as the landlord did not pay the bill in full. The landlord no longer requires an order of possession or the pet security deposit and this portion of his application is withdrawn. There is insufficient evidence to substantiate the 2 Month Notice for Landlord's Use of Property and that notice is set aside.

The tenants testified that the landlord disconnected the utilities to force the tenants out of the rental unit. The tenants do acknowledge that October rent in the amount of \$1500.00 remains unpaid. The tenant is asking for compensation for moving costs however did not specify a monetary amount on the application. The disputed \$300.00

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rent increase for November 2010 did not take effect and the tenant does not require that the locks be changed so that portion of the tenant's application is dismissed.

It was clarified for all parties in the hearing that having a legal, written tenancy agreement is a requirement of the Act and helps prevent many of the issues that arose out of this tenancy.

Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and acknowledged that the rent is owed to the landlord therefore the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

I am not satisfied that the landlord had/has the required permits in place for landlord's use of property and that it would have been necessary for the tenant's to vacate to accommodate this notice. The landlord was responsible for paying the utility bills and his failure to do so resulted in the tenants having to vacate the rental unit and incur moving costs.

As for the landlord's monetary order I find that the landlord has established a claim for \$1500.00 in unpaid rent however I find that the tenant's are also entitled to some level of compensation.

I hereby dismiss the remainder of the landlord's application for dispute resolution without leave to reapply.

As for the tenant's monetary order I find that the tenant's have established a claim and are entitled to \$775.00 in moving costs.

I hereby dismiss the remainder of the tenant's application for dispute resolution without leave to reapply.

Neither party is eligible to recover the filing fee.



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Conclusion

I find that the landlord has established a monetary claim for **\$1500.00**. I find that the tenant has established a monetary claim for **\$775.00**. I order the Landlord pursuant to s. 38(4) of the Act to retain the Tenant's **\$725.00** security deposit in satisfaction of the claim.

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: November 9, 2010

Dispute Resolution Officer