



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for cause, a monetary order for unpaid rent and recovery of the filing fee. Both parties participated in the conference call hearing.

Issues to be Decided

Is the landlord entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy had monthly rent of \$2250.00 and the tenants paid a security deposit of \$1000.00. On October 19, 2010 the landlord served the tenant with 1 Month Notice to End to Tenancy for Cause: adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord; jeopardized a lawful right or interest of another occupant or the landlord.

The landlord testified that on October 8, 2010 the tenants sent the landlord an email stating that they would be vacating the rental unit November 1, 2010. On November 4th the November rent cheque came back to the landlord as the tenants had put a stop payment on the cheque. On November 8th the landlord contacted the tenants via email regarding the November rent and that per the Act the tenants were responsible for the November rent.

As the tenants have vacated the rental unit the landlord no longer requires an order of possession and this portion of the application is dismissed.

The tenants testified that they had not paid the rent as they had vacated November 1, 2010 and that page 2 of the notice to end tenancy for cause states 'You can move out sooner'. A tenant may move out sooner than the end date noted on the notice, and that is the tenant's choice. Moving out before the end date of the tenancy however does not discharge the tenant's responsibility to pay the rent that is due.



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The tenants offered to have the landlord keep the \$1000.00 security deposit as full compensation for the 1 month's rent owed however the landlord did not agree to this amount.

A settlement was reached between the parties and the landlord agreed in this hearing to accept ½ month's rent or \$1125.00 in full settlement of the 1 month's rent owed which was \$2250.00.

Analysis

Based on the documentary evidence and testimony I find that the tenants were properly served with a notice to end tenancy for cause effectively ending the tenancy on November 30, 2010. The tenants vacated the rental unit prior to November 30, 2010 and did not pay November's rent of \$2250.00.

Through settlement in this hearing the landlord has established a monetary claim for \$1125.00 in unpaid rent.

The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$1125.00. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the Landlord pursuant to s. 38(4) of the Act to keep the Tenant's \$1000.00 security deposit in partial satisfaction of the claim and I grant the landlord an monetary order under section 67 for the balance due of **\$175.00** ($\$1125.00 + \$50.00 = \$1175.00 - \$1000.00 = \175.00)

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: December 2, 2010

Dispute Resolution Officer