



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

CNR

Introduction

This hearing was held in response to the tenant's Application for Dispute Resolution in which the tenant has applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and compensation for damage or loss under the Act.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. The parties were each affirmed.

Issue(s) to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent issued on November 2, 2010, be cancelled?

Is the tenant entitled to compensation in the sum of \$744.37?

Background and Evidence

The parties agreed that the tenancy commenced on July 1, 2010, rent is \$550.00 per month due on the first day of each month. A deposit in the sum of \$275.00 was paid at the start of the tenancy.

The landlord issued the tenant a 10 Day notice ending the tenancy for unpaid rent. The tenant confirmed he has not paid November rent owed as the landlord's cat injured his cat and the resulting vet bill in the sum of \$744.37 left him unable to pay the rent.

The tenant received the notice on November 4, 2010, and submitted his application disputing the notice on November 8.

The tenant requested compensation for the vet bill.

The landlord asked that the tenant be evicted; stating that they want him to leave.

The tenant questioned the disposition of the deposit held by the landlord.

Analysis

After considering all of the written and oral evidence submitted at this hearing, I find that the notice issued on November 2, 2010, if of full force and effect. The tenant confirmed he has not paid November rent owed in the sum of \$550.00.

I have dismissed the tenant's Application to cancel the Notice.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

The tenant's monetary claim is based on an alleged incident that I find has no bearing on the tenancy. A fight between the tenant's cat and the landlord's cat is not a matter contemplated by the *Act*. As there is no breach of the *Act* I find that the claim for vet costs is dismissed.

As the landlord requested that the tenant move out, I find that section 55(1) of the *Act* applies. Section 55 (1) of the *Act* provides:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and
 - (b) the director dismisses the tenant's application or upholds the landlord's notice.

As the landlord requested that the tenant move out, I find that the landlord is entitled to an Order of possession effective 2 days after service to the tenant.

The parties were informed that return of the deposit must comply with the *Act*.

Conclusion

As I have determined that the tenant has failed to pay November, 2010, rent I find that the 10 Day Notice to End Tenancy for Unpaid Rent issued on November 2, 2010, is of full force and effect.

The tenant's Application for dispute Resolution is dismissed without leave and, based upon the oral request of the landlord I have issued an Order of possession to the landlord, pursuant to section 55(1) of the Act.

The tenant's monetary claim is dismissed.

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 01, 2010.

Dispute Resolution Officer