

DECISION

Dispute Codes CNR, MNR, MNDC, ERP, RP, PSF, LRE, FF, OPR, MNSD

Introduction

This hearing dealt with applications from the landlord and the tenant pursuant to the *Residential Tenancy Act* (the *Act*). The tenant applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent pursuant to section 46;
- a monetary order for the cost of emergency repairs pursuant to section 33;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make repairs and emergency repairs to the unit pursuant to section 33;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The landlord applied for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for the landlord's application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard. The landlord's representative testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent of \$3,550.00 and a 1 Month Notice to End Tenancy for Cause for late payment of rent on the tenant's door at 7:36 p.m on January 6, 2011.. The tenant confirmed receiving these notices. The landlord's representative testified that he sent the tenant the landlord's dispute resolution hearing package by registered mail on January 20, 2011. The tenant confirmed receiving this package. The tenant testified that he sent the landlord his dispute resolution hearing package by registered mail on January 21, 2011. Neither the landlord nor the landlord's representative had received

the tenant's package and were unaware that the tenant had submitted his own application for dispute resolution.

During the hearing, it became apparent that the tenant had sent his dispute resolution hearing package to an incorrect address. The landlord's representative said that an error had been made in the landlord's application for dispute resolution and requested permission to revise the amount of the monetary award requested from \$1,400.00 to \$3,550.00, the amount cited in the 10 Day Notice to End Tenancy for Unpaid Rent. The landlord's application did not seek to obtain an Order of Possession based on the 1 Month Notice to End Tenancy, but was limited to the 10 Day Notice to End Tenancy for Unpaid Rent. Although the tenant said that he intended to apply for cancellation of both notices to end this tenancy, his application only requested cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent.

Although it became apparent that an adjournment would be necessary to deal with the above-noted deficiencies in the service of documents and the content of the various applications, the parties discussed the issues in dispute and were able to reach a compromise. The parties agreed to settle the matters between them on the following terms:

1. The tenant will pay \$1,400.00 in rent for January and February 2011 on February 1, 2011 to the landlord's representative.
2. The tenant agrees to vacate the rental unit by 1:00 p.m. on February 28, 2011.
3. If the tenant does not pay the \$1,400.00 payment on February 1, 2011, the landlord will be given an Order of Possession to take effect by 1:00 p.m. on February 4, 2011.
4. The tenant's payment of \$1,400.00 on February 1, 2011 will constitute full and final settlement of the matters in dispute between the parties relating to the rental unit.

Conclusion

To perfect the parties' settlement agreement, Orders of Possession are being delivered to the landlord in support of the above agreement for use in the event that the tenant does not abide by the terms of the above settlement.

A monetary Order is also being delivered to the landlord in support of the above agreement to be used if the tenant does not abide by his agreement to pay \$1,400.00 to the landlord's representative on February 1, 2011. This monetary Order of \$1,050.00 allows the landlord to retain the tenant's security deposit of \$350.00 in the event that the tenant does not pay the agreed \$1,400.00 on February 1, 2011.

If the tenant abides by the terms of this agreement, the provisions regarding the landlord's return of the security deposit as set out in the *Act* apply.

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*.