



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF, MNDC

Introduction

Some documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is an application to cancel a Notice to End Tenancy, and a request for a monetary order for \$4999.99. The applicant is also requesting recovery of the \$50.00 filing fee.

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application. For claims to be combined on an application they must related.

Not all the claims on this application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with the request to cancel the Notice to End Tenancy that was given for non-payment rent, and the request for recovery of the filing fee, and I dismiss the remaining monetary claim with liberty to re-apply.

Background and Evidence

On June 2, 2011 the landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent in the amount of \$950.00.

The applicant testified that:

- He has withheld the rent because he believes that the rental unit is unliveable and he wanted to force the landlord to improve the rental unit.
- He has not applied for dispute resolution to get the landlord to do any repairs however the landlord knows that repairs are needed.
- He does not have any order from a dispute resolution officer allowing him to withhold the rent.

The landlord testified that:

- There is still \$475.00 rent outstanding for the month of May 2011, and the full \$950.00 June 2011 rent is also outstanding.
- He therefore served the tenant with a 10 day Notice to End Tenancy and requested that notice be upheld and an Order of Possession be issued.

Analysis

It is my decision that I will not set aside the 10 day Notice to End Tenancy because at this time there is still \$1125.00 in rent outstanding.

The tenant does not have the right to unilaterally withhold the rent without first getting an order from a dispute resolution officer allowing him to do so.

If a tenant chooses to withhold the rent he puts his tenancy at risk, because the landlord then has the right to give the tenant a 10 day Notice to End Tenancy.

In this case the tenant has been given a 10 day Notice to End Tenancy and there is no reason for me to cancel that notice.

Conclusion

The tenant's application to cancel a 10 day Notice to End Tenancy is dismissed and I also order that the tenant bear the \$50.00 cost of the filing fee.

As stated earlier, the monetary portion of the claim is dismissed with liberty to reapply.

At the request of the landlord I have issued an Order of Possession that is enforceable two days after service on the tenant.

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 29, 2011.

Residential Tenancy Branch