



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for landlord's use of property, a monetary order for unpaid rent loss and recovery of the filing fee. Both parties participated in the conference call hearing and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

This tenancy began July 2009 with monthly rent of \$1000.00 and the tenants did not pay a security deposit. On April 29, 2011 the landlord served the tenants with a 2 Month Notice to End Tenancy for Landlord's Use of Property:

- This rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother or child) of the landlord or the landlord's spouse; the tenants have not filed to dispute this notice.

The landlord testified that the tenants vacated the rental unit July 30, 2011 and that the landlord no longer requires an order of possession; therefore this portion of the landlord's application is dismissed.

The landlord stated that the tenants did not pay the July 2011 rent but that the May and June 2011 rent was paid in full. The landlord stated that she was not aware that when serving a 2 Month Notice to End Tenancy for Landlord's Use of Property that the landlord was required to provide one month's rent compensation to the tenant.

The landlord in this application is seeking \$2000.00 compensation for unpaid rent.

The tenant acknowledged that the July 2011 rent had not been paid and stated that she was never served with the notice to end tenancy. The landlord responded by saying that the notice had been served in person to the other tenant on the tenancy agreement.

Analysis

Based on the documentary evidence and testimony of the parties I find that the landlord is not entitled to a monetary order for unpaid rent. The landlord served the tenants with a 2 Month Notice to End Tenancy for Landlord's Use of Property and the form clearly states on page 2 that a tenant is entitled to one month's rent as compensation:

Compensation for Tenants

On or before the effective date of this Notice, the landlord must pay the tenant an amount equal to one month's rent payable under the tenancy agreement.

Residential Tenancy Act section 51 Tenant's compensation: section 49 notice speaks to: (1) A tenant who receives a notice to end a tenancy under section 49 [landlord's use of property] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

As all rent has been paid by the tenants with the exception of the July 2011 rent and the landlord was required to compensate the tenants, there is effectively no unpaid rent. The landlord's request for a monetary order for unpaid rent is hereby dismissed.

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

As the landlord has not been successful in their application the landlord is not entitled to recovery of the \$50.00 filing fee.

Conclusion

The landlord's application is dismissed in its entirety without leave to reapply.

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: August 11, 2011.

Residential Tenancy Branch