

DECISION

Dispute Codes CNR, RR, RP, OPR, MND, MNR, FF

Introduction

There are two applications filed. The Landlord has filed an application for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent, a monetary order request for unpaid rent, for damage to the unit, site or property and recovery of the filing fee. At the beginning of the hearing the Landlord clarified that he is unaware of any damage at the rental unit until the Tenancy is ended and an inspection is made, has not made any repairs for such. The Landlord has filed no evidence.

The Tenant has filed an application to cancel the notice to end tenancy, make emergency repairs for health or safety reasons, to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided. At the beginning of the hearing it was clarified by the Tenant that no emergency repairs are needed.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession resulting from a 10 day notice to end tenancy for unpaid rent?

Is the Tenant entitled to an order to cancel the 10 day notice to end tenancy for unpaid rent?

Is the Landlord entitled to a monetary order for unpaid rent or damages?

Is the Tenant entitled to reduce rent for repairs, services or facilities agreed upon but not provided?

Background and Evidence

Both parties agree that no signed tenancy agreement exists.

The Tenant has provided a copy of the 10 day notice to end tenancy which was filled out by the Landlord and given to the Tenants on July 29, 2011. The notice does not give any names for the Tenant's. The Landlord confirms this stating that at the time, the names of the Tenant's were unknown to him. The notice shows in the Tenant name section as, "Tenants names are not known." The Landlord claims that the Tenants moved in July 2011 and have made no rent payments, no damage deposit or utility

payments. The Tenant confirms in his direct testimony that he has not made all the rent payments and that the Landlord is aware of the reasons why. The Tenant states that there are no utilities being provided and wishes to be allowed to reduce rent.

Analysis

As both parties have attended the hearing and have made detailed reference to the evidence provided by the Tenant, I am satisfied that each has been properly served with the notice of hearing and evidence packages. The Landlord has submitted no documentary evidence.

Based upon the submitted copy of the 10 day notice to end tenancy for unpaid rent, which has been confirmed by both parties, I find that the notice is deficient in content. In order to be effective the notice to end tenancy in this case must have the Tenant's names and state the effective date of the notice. As such, I find that the Tenant has established a claim to cancel the Landlord's 10 day notice to end tenancy for unpaid rent. This notice dated July 29, 2011 by the Landlord is set aside and the Tenancy shall continue.

Although the Tenant has confirmed unpaid rent, I find that the Landlord has failed to properly serve the Tenant with notice to end tenancy for this purpose. The Landlord has provided no evidence to support his claims for unpaid rent or utilities. I dismiss the Landlord's claims for this portion of the application.

The Landlord has further made a claim for damages to the unit, but has stated that he is unaware of the extent of damage, if any, or has yet to suffer a loss for any repairs needed. I find that the Landlord is premature in this portion of his claim and dismiss it with leave to re-apply.

The Tenant has filed a claim to allow a reduction in rent for repairs, services or facilities agreed upon but not provided. The Tenant has not submitted any evidence of submissions on this claim. Both parties agree that there is no signed tenancy agreement. With no evidence of entitlement I find that the Tenant has failed in this portion of their claim and it is dismissed.

Conclusion

The 10 day notice to end tenancy is set aside and the Tenancy shall continue.

The Landlord's claim for a monetary order for unpaid rent is dismissed.

The Landlord's claim for a monetary order for damages is dismissed with leave to re-apply.

The Tenant's claim to reduce rent for repairs, services or facilities agreed upon but not provided 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: September 30, 2011.

Residential Tenancy Branch