

DECISION

Dispute Codes CNR, FF, LRE, MT, RPP

Introduction

This hearing dealt with an application by the tenant seeking to set aside a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a monetary order for compensation for loss, an order to have the tenant's personal property returned, and to suspend or set conditions on the landlord's right to enter the rental unit. Both parties participated in the conference call hearing.

Issues to be Decided

Is the tenant entitled to any of the above under the Act, the regulations or tenancy agreement?

Background and Evidence

The tenancy began on or about November 2009. Rent in the amount of \$350.00 is payable in advance on the first day of each month.

The landlord gave the following testimony; the tenant has fallen behind in rent for many months, allows the tenant to pay late on the understanding that she is to pay sooner rather than later, never discussed the issuance of receipts with the subject tenant, the tenant stored some goods without permission on an adjacent property that the subject landlord owns, the items were not locked up or secured, refused a lump sum payment in September due to this matter going for dispute resolution and that she wanted the tenant to move out.

The tenant gave the following testimony; has paid rent in lump sums throughout her tenancy as she is going through a divorce and receives large sums of payments from

her lawyer and tries to pay several months of rent in advance, has requested receipts in the past to no avail, does not dispute that she stored items on an adjacent property without permission, offered a lump sum payment on September 26, 2011 to the landlord but the landlord refused to take it, and states that she has overpaid \$450.00 worth of rent.

Analysis

The tenant provided some documentation and pictures for the hearing that were neither helpful nor relevant. The pictures were of a poor quality at best and did not depict any particular items as claimed by the tenant.

The first issue to be addressed in the tenant's application is money owed for loss. The tenant did not provide any evidence such as receipts, pictures or appraisals to support their claim.

This portion of the tenant's application is dismissed.

The next issue is the return of personal property. The tenant knowingly and wilfully stored items at a residence that was not her own without permission and without securing it. The tenant was negligent in this act.

This portion of the tenant's application is dismissed.

The next issue is to suspend or set conditions on the landlord's right to enter the rental unit. The tenant has not submitted any evidence to support their claim in this regard.

This portion of the tenant's application is dismissed.

The final issue is whether or not the Notice should be set aside? The landlord states that the tenant has not paid the rent. The tenant disputes that and submits that she has overpaid by \$450.00.

Both parties claim to have detailed account of payments or lack thereof and have documented evidence to prove it. The landlord provided no documentary evidence for

this hearing nor made a cross application in regards to lack of payment. The landlord advised she had all the necessary documents before her, but those were not submitted to the Branch. The tenant has not satisfied me that she has overpaid as she has not provided sufficient evidence to support her claim.

Section 26 (2) of the Act states: "A landlord must provide a tenant with a receipt for rent paid in cash". The tenant stated that she requested receipts and the landlord did not dispute that she has not given the subject tenant receipts. The tenant has satisfied me that the 10 Day Notice for Unpaid Rent or Utilities should be cancelled and the tenancy remains in effect.

Since the tenant was only partially successful in her application I order that she is not entitled to the recovery of the filing fee.

Conclusion

The Notice is set aside. The tenant has been partially successful.

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: October 31, 2011.

Residential Tenancy Branch