



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenants: CNC CNR O

For the landlords: OPR MNR MNSD MNDC FF

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the *Residential Tenancy Act* (the “Act”).

The tenant applied to cancel a Notice to End Tenancy for Cause and Unpaid Rent or Utilities; and to dispute the amount being claimed for utilities (other).

The landlords applied for an order of possession for unpaid rent or utilities; a monetary order for unpaid rent or utilities; to keep all or part of a pet damage deposit and security deposit; for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and for recovery of the filing fee.

These matters were set for hearing by telephone conference call at 1:30 p.m. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the tenant. Therefore, as the landlords did not attend the hearing by 1:40 p.m., and the tenant appeared and was ready to proceed, I dismiss the landlords’ claim without leave to reapply. As a result of the above, the hearing proceeded with the tenant’s application only.

The hearing process was explained to the tenant and an opportunity was given to ask questions about the hearing process. Thereafter the tenant gave affirmed testimony, was provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

Preliminary and Procedural Matter

With respect to service, the tenant provided oral testimony that he received a copy of the landlord’s application, Notice of a Dispute Resolution Hearing and their evidence. The tenant further testified that he served the Notice of a Dispute Resolution Hearing for

his application on May 16, 2012 in person to the female landlord as the male landlord was out of town at that time for work purposes. The tenant stated that he subsequently served the male landlord in person upon his return from work on May 25, 2012. Given the above, I find that both parties were served of their respective applications in accordance with the *Act*.

The tenant testified that he no longer occupies the rental unit and accepts that the tenancy has ended. The tenant stated that he began to move his personal belongings out of the rental unit on May 15, 2012. The tenant indicated that he had vacated the rental unit by June 1, 2012, however, he did state that a chair and air mattress remained in the rental unit, and that he was too overwhelmed to remove the unwanted items.

Given the above and taking into account the tenant's testimony that he has already vacated the rental unit, I dismiss the tenant's application to cancel the Notice to End Tenancy for Cause and Unpaid Rent or Utilities. As I have dismissed the landlords' application for unpaid utilities, I did not consider this issue and the tenant's application to dispute the utilities is dismissed with leave to reapply.

Conclusion

As the landlords did not attend the hearing scheduled for this date, I dismiss the landlords' application without leave to reapply.

As the tenant no longer resides in the rental unit, I dismiss the tenant's application to cancel the Notice to End Tenancy for Cause and Unpaid Rent or Utilities. As I have dismissed the landlords' application for unpaid utilities, I did not consider this issue and, therefore, dismiss the tenant's application to dispute the utilities with leave to reapply.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 7, 2012

Residential Tenancy Branch