



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR, MNDC, MNSD, OLC, RP, PFS, LRE, OPR, FF

Introduction

A substantial amount of 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.

All testimony was taken under affirmation.

Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlord. Both files were heard together.

Landlord's application

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy for non-payment rent, a request for a monetary order for outstanding rent, and a request for recovery of the \$50.00 filing fee.

Tenant's application

First of all it is my decision that I will not deal with all the issues that the tenant has put on her 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 of rent, and the request for recovery of the filing fee, and I dismiss the remaining claims, with liberty to re-apply.

Background and Evidence

The landlord testified that:

- The rent for this unit is \$1300.00 per month.
- The tenant is also responsible for 50% of the utilities.
- The agreement is that the tenant is to pay her rent up front, and since the utilities are in her name, he will reimburse her 50% of her utility bills when she presents those bills to him.
- The tenant has taken it upon herself to just deduct money from the rent instead of paying her rent and then having the utilities reimbursed.
- The tenant has subsequently supplied him with some utility invoices, but she refuses to go over the invoices with him to determine how much should be reimbursed to her.
- Therefore at this time there is a total of \$712.00 outstanding for the months of May 2012 in June 2012, and the tenant has failed to pay the full \$1300.00 rent for the month of July 2012.
- He served the tenant with a 10 day Notice to End Tenancy or non-payment of rent on July 2, 2012, and therefore he is requesting an Order of Possession be issued based on that notice.
- He is also requesting an order for the outstanding rent plus his filing fee.

The tenant testified that:

- The landlord is correct, the agreement was that she was is to pay her full rent of \$1300.00 each month, and then the landlord is supposed to reimburse 50% of the utilities once she supplies him with the invoices.
- Because she does not trust the landlord to reimburse her the 50% utilities she took it upon herself to just deduct utilities from her rent payments.
- She has therefore deducted a total of \$712.00 from her rent payments.
- She is also withheld her July 2012 rent because when she went to the Residential Tenancy Branch they advised her to do so, saying there would be little point in pain the rent when she has filed a claim against the landlord.
- She is therefore requesting that the Notice to End Tenancy be cancelled.

Analysis

It is my finding that the tenant does owe \$712.00 in back rent, because the tenant did not have the right to withhold money from the rent without either getting the landlords permission to do so, or without getting an order from a Dispute Resolution Officer allowing her to do so.

Further I find it very unlikely that the Residential Tenancy Branch would have advised the tenant not to pay her July 2012 rent, as that is contrary to the advice the Residential Tenancy Branch would normally issue.

Therefore, at this time, there is a total of \$2012.00 in rent outstanding, and I will not cancel the Notice to End Tenancy.

I therefore allow the landlords request for an Order of Possession and his request for an order for that outstanding rent.

I also order recovery of the landlords filing fee of \$50.00

I further order that the tenant must bear her own cost of the filing fee that she paid for her application for dispute resolution.

Conclusion

Landlord's application

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

I have allowed a monetary claim of \$2062.00 and I therefore order that the landlord may retain the full security deposit of \$650.00, and I have issued a monetary order in the amount of \$1412.00.

Tenant's application

The tenant's application to cancel a Notice to End Tenancy is dismissed, as is her request for recovery of the filing fee.

As stated previously I dismiss with leave to reapply, all other claims made on the tenants application for dispute resolution.

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: July 25, 2012.

Residential Tenancy Branch