



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This matter was originally conducted by way of Direct Request proceeding. The landlord applied for an order of possession and a monetary order for unpaid rent. The Dispute Resolution Officer who conducted the Direct Request proceeding determined that it was appropriate for the matter to be conducted by way of teleconference hearing. I was assigned and conducted a teleconference hearing on this application.

Both the landlord and the tenant participated in the teleconference hearing. At the outset of the hearing the landlord stated that the tenant had paid the monetary amount claimed, and the landlord wished to withdraw the portion of the application regarding a monetary order. I accordingly dismissed the portion of the application regarding a monetary order.

I have reviewed all evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on September 1, 2011, with a monthly rent of \$860 payable in advance on the first day of each month. The tenancy agreement indicates that the tenant would pay an additional \$5 for storage. Further, what appears to be the handwritten numeral "15" appears in the space indicating "Parking for ____ vehicle(s)." The landlord's further evidence was not entirely clear on this point, but possibly this portion of the tenancy agreement indicates that the tenant was to pay \$15 per month for one parking spot. The landlord did not submit any ledger showing monthly payments by the tenant.

On September 2, 2012, the landlord served the tenant a notice to end tenancy for unpaid rent. The notice indicated that the tenant owed \$1080 in unpaid rent on September 1, 2012. The landlord's testimony was that the tenant owed \$860 for September 2012 rent and \$220 in unpaid parking fees. The tenant stated that he paid September 2012 rent on September 1, 2012 by putting his cheque for \$860 in the landlord's mailbox in the lobby of the building. The landlord did not cash the cheque until September 11, 2012. The tenant further stated that he did not know what the amount of \$1080 on the notice represented.

Analysis

I find that the notice to end tenancy for unpaid rent is not valid. In a 10 Day Notice to End Tenancy for Unpaid Rent, a landlord may not claim any fees or amounts greater than the rent owed, aside from utilities, which are dealt with separately. If the landlord claims an amount greater than the rent owed, the notice will be invalid. In this case, the landlord claimed an amount greater than the rent owed.

Conclusion

The landlord's application is dismissed, and the tenancy continues.

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 22, 2012.

Residential Tenancy Branch