



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlords: OPC, MNSD and FF
Tenant: MNDC and OPT

Introduction

This hearing was convened on applications by both the landlords and the tenant.

By application of September 6, 2012, the landlord sought an Order of Possession pursuant to a one-month Notice to End Tenancy served on July 23, 2012 by posting on the tenant's door and setting an end of tenancy date of August 31, 2012. The landlord also seeks to recover the filing fee for this proceeding from the tenant and authorization to retain the tenant's security deposit.

By application of September 4, 2012, the tenant sought an Order of Possession for the tenant and claims damage or loss under the legislation or rental agreement in the amount of \$12,500. .

Issue(s) to be Decided

Which party is entitled to possession of the rental unit? Is the landlord entitled to retain the security deposit and recover the filing fee for this proceeding?

Is the tenant entitled to a monetary award for harassment?

Background and Evidence

This tenancy was the subject of a hearing on August 23, 2012.

In her decision of August 28, 2012, the Dispute Resolution Officer upheld the Notice to End Tenancy July 23, 2012 and made a finding that the tenancy was to end on August 31, 2012.

The Dispute Resolution Officer also found that the conduct characterized as harassment by the tenant constituted proper exercise of the duties of the landlord to manage the rental building.

The tenant's application was dismissed and leave to reapply was not granted.

The merits of the Notice to End Tenancy and the tenant's claims were canvassed in the hearing of August 23, 2012 and need not be repeated herein.

At the commencement of the hearing, the landlord advised that the tenant appeared to have vacated the rental building on or about September 28, 2012. The tenant, through his advocate, concurred that he had no further interest in the rental unit and surrendered possession of it to the landlord immediately. Therefore, the parties concurred that the landlord did not require an Order of Possession.

The landlord stated that the tenant had not left the keys to the rental unit and that she anticipated some further loss of rent as the tenant had not vacated the rental unit by August 31, 2012 as required by the Notice to End Tenancy and as was upheld by the Dispute Resolution Officer during the hearing of August 23, 2012.

As to the tenant's claim for damages, I find that they were heard and disposed of in the previous hearing and are dismissed as *res judicata*.

Consent Agreement

During the hearing, the parties arrived at the following consent agreement:

1. As noted, the tenant surrendered possession of the rental unit to the landlord immediately and claims no further interest in it;
2. The landlord agrees to settle all claims as may be ascertained when she regains possession of the rental unit, including cleaning, damage, loss of rent and recovery of the filing fee in exchange for authorization to retain the \$200 security deposit plus interest.
3. The tenant concurred that the landlord may retain the security deposit and interest.
4. The parties agree that this constitutes full and final settlement of all matters pertaining to the tenancy and neither will bring a further action against the other with respect to the tenancy agreement.

As a matter of note, the tenant's advocate kindly offered to return the keys to the landlord.

Conclusion

The tenant affirmed that he has surrendered vacant possession of the rental unit to the landlord.

The landlord is authorized to retain the security deposit plus interest in satisfaction of claims for cleaning, repair, loss of rent and all other claims apparent on possession.

The tenant's application is dismissed in its entirety.

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 02, 2012.

Residential Tenancy Branch