



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPR, CNR

Introduction

Some documentary 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 and the parties were given the opportunity to ask questions of the other parties.

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 landlords. Both files were heard together.

The landlord's application is a request for an Order of Possession based on a notice to end tenancy for nonpayment of rent, a request for a Monetary Order for unpaid rent and late fees, and a request for recovery of the \$50.00 filing fee.

The tenant's application is a request for an Order Canceling a Notice to End Tenancy that was given for nonpayment of rent.

Background and Evidence

Both the landlord and the tenant agree that the rent for the months of August 2012, and September 2012 is outstanding.

Both landlord and tenant agree that a 10 day Notice to End Tenancy was served on the tenant on August 2, 2012.

The tenant testified that:

- He cannot afford to pay the full rent on his own as he has always had a roommate, however when he lost his roommate the landlord refused to accept the new roommate.
- He went to the landlord's suite to pay his half of the rent, and to get the landlord to sign an "intent to rent form" for his new roommate however the landlord refused to sign it and refuse to accept any rent.
- He therefore believes that the notice to end tenancy should be canceled since the rent would have been paid in full had the landlord accepted his half of the rent and agreed to sign the intent to rent form for his roommate.

Landlord testified that:

- The tenant never offered to pay his half of the rent; they would've gladly accepted half rent as it is better than nothing.
- The tenant did request that they sign an "intent to rent form", however the tenant never brought the intended roommate to meet them and they're not willing to sign such a form without even meeting the proposed tenant.
- Further although they are not willing to add any new tenants to this tenancy agreement, they're not stopping the tenant from taking in a roommate if he so wishes.

In response to the landlord's testimony the tenant testified that:

- He invited the landlord to his rental unit to meet to propose roommate however the landlord refused to come.

Analysis

There is only one tenant on this tenancy agreement, and the landlord is not obligated to add any further tenant's, and therefore is not required to sign an intent to rent form for any roommate the tenant wants to bring in.

Further it is the tenant's responsibility to ensure that he has the full rent when the rent is due and in this case it's my finding that the tenant has not paid any rent for the months of August 2012 in September 2012.

The tenant claims that he attempted to pay at least half the rent; however he has provided no evidence to support that claim, and therefore has not met the burden of proving that any rent has been offered to the landlord.

Therefore I am not willing to cancel the 10 day Notice to End Tenancy, and will be issuing an Order of Possession to the landlord.

I also allow the landlord's claim for the outstanding rent totaling \$1564.00.

I deny the landlord's claim for late fees however because late fees can only be charged if there's a clause in the tenancy agreement relating late fees and in this case I find no such clause in the tenancy agreement.

I will however order that the tenant bear the cost of the \$50.00 filing fee paid by the landlord's.

Conclusion

Tenant's application

The tenant's application is dismissed without leave to reapply.

Landlord's application

I have issued an order of possession that's enforceable two days after service on the tenant.

I have allowed \$1614.00 of the landlord's claim and I therefore order that landlord may retain the full security deposit of \$382.50, and I've issued a monetary order in the amount of \$1231.50.

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: September 05, 2012.

Residential Tenancy Branch