

INTERIM DECISION

Dispute Codes:

Landlord's application: OPR, MNR, MNSD, FF

Tenant's application: MT, CNR, RPP, LRE, FF

Introduction

This Hearing was convened to consider cross applications. The Landlord seeks an Order of Possession and monetary award for unpaid rent; to apply the security deposit towards partial satisfaction of her monetary award; and to recover the cost of the filing fee from the Tenant.

The Tenant seeks more time to file an application to cancel a Notice to End Tenancy; to cancel the Notice to End Tenancy for Unpaid Rent issued November 5, 2012; for Orders that the Landlord return his personal property and to suspend or set conditions on the Landlord's right to ender the rental unit; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

It was determined that the Tenant served the Landlord with his Notice of Hearing documents by hand on November 15, 2012. It was also determined that the Landlord served the Tenant with her Notice of Hearing documents and copies of her evidence on November 16, 2012, by hand.

The Tenant testified that he mailed copies of his documentary evidence to the Landlord by registered mail. The Tenant provided the tracking number for the document. The Landlord testified that she has not received any documentary evidence from the Tenant. A search of the Canada Post tracking site indicates that a Notice was left for the Landlord and that the documents are available for pick up by the Landlord at a certain postal outlet.

Preliminary Matters

At the outset of the Hearing, the Tenant stated that he moved out of the rental unit on November 17, 2012. The Landlord testified that she got the keys to the rental unit on December 1, 2012. In any event, the Landlord has taken back possession of the rental unit and therefore the Landlord's application for an Order of Possession and the Tenant's application for more time; to cancel the Notice to End Tenancy and for an Order suspending or placing restrictions on the Landlord's right to enter the rental unit are all dismissed.

The Landlord stated that the Tenant did damage to the rental unit and that she wanted to make a claim for damages against the Tenant.

The Tenant did not tick off the box on his application indicating that he is seeking a monetary award, however the Tenant provided documentary evidence suggesting that he also wanted to make a monetary claim against the Landlord.

I adjourned this Hearing in order to allow the Landlord to amend her application, seeking damages, and the Tenant to amend his application to include a request for a monetary order. I advised the Landlord where to pick up the Tenant's documentary evidence and explained to the Landlord that failure to accept service does not change the fact that she has been served.

During the Hearing, I advised the parties to amend their applications forthwith and told the Landlord to provide the Tenant with documentary evidence supporting her amended application when she serves him with her amended application. The Tenant will have 5 days from being served with the Landlord's documentary evidence to provide the Residential Tenancy Branch and the Landlord with his rebuttal evidence, if any.

I hereby order the parties to amend their applications within 5 days of receipt of this Interim Order.

This Hearing will reconvene at the date and time provided on the enclosed Notice of Reconvened Hearing. During the Hearing the Tenant gave an address for service, which was repeated several times for the Landlord.

Conclusion

The Tenant has vacated the rental unit and therefore the Landlord's application for an Order of Possession is dismissed.

The Tenant's application for more time to file his application, to cancel the Notice to End Tenancy and to set restrictions on the Landlord's right to enter the rental unit is also dismissed.

Both parties are given leave to amend their applications. This matter is adjourned to the date and time provided on the Notice of Reconvened Hearing that accompanies this Interim Decision.

The Landlord may amend her Application to include a monetary claim for damages. All documentary evidence in support of her application must be provided to the Tenant at the same time that she serves her amended Application for Dispute Resolution. The

Landlord must amend her application within 5 days of receipt of this Interim Decision. Tenant must be served with the amended Application and documentary evidence within 3 days of the Landlord amending her Application.

During the Hearing the Tenant gave an address for service, which was repeated several times for the Landlord.

The Tenant may amend his Application to include a request for a monetary order, which must be done within 5 days of receiving this Interim Decision. The Tenant must serve the Landlord with his amended Application within 3 days of amendment. The Tenant's documentary evidence in support of this amended Application is ready for pick up at a postal outlet and the Landlord has been provided the address for pick up. The Tenant will have 5 days after being served with the Landlord's Application and supporting documentation in order to file rebuttal evidence, if any.

It is recommended that both parties make arrangements to have interpreters available to assist them at the Reconvened Hearing.

This Interim 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: December 17, 2012.

Residential Tenancy Branch