Dispute Resolution Services

DECISION

Dispute Codes   OPR, MNR, MNDC, FF, CNR

Introduction

There are applications filed by both parties. The Landlord has made an application for an order of possession and a monetary order for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee. The Tenant has made an application to cancel a notice to end tenancy issued for unpaid rent and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package from the other party, I am satisfied that both parties have been properly served with the notice of hearing. The Landlord has stated that he submitted 8 pages of documentary evidence with the original application that was served to the Tenant. The Landlord has also submitted 4 pages of documentary evidence prior to the hearing date. The Tenant has not submitted any documentary evidence.

At the beginning of the hearing, both parties agreed that the Tenant vacated the rental unit on February 1, 2013. As such, the Landlord has withdrawn his request for an order of possession and the Tenant has withdrawn his application to cancel the notice to end tenancy issued for unpaid rent as he has moved to a new location. No further action is required for these portions of the Applications filed. During the hearing the Tenant also provided his new address for delivery of this decision and as such the CMS computer data will be updated.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Background. Evidence and Analysis

Both parties confirmed that a signed tenancy agreement exists, but that neither party submitted it.

The Landlord seeks a monetary claim of $1,400.00. This consists of rent arrears of $500.00 for January and $900.00 for loss of rental income for February. The Tenant disputes this. Both parties agreed that the Landlord served the Tenant with a 10 day

notice to end tenancy issued for unpaid rent for $900.00. Both parties agreed that the Tenant gave $400.00 in cash to the Landlord on January 5, 2013 as shown by the Landlord's submitted copy of the receipt issued for use and occupancy only. The Tenant claims that the Landlord refused his rent cheque and would only take cash. The Landlord disputes this claim. The Landlord also claims that because the Tenant did not provide any notice and did not vacate until February 1, 2013 that he seeks the $900.00 for loss of rental income as he has attempted to re-rent the unit by placing a sign on the front and posting electronic ads.

As both parties have confirmed that the Tenant was served with a 10 day notice to end tenancy for unpaid rent of $900.00 and that the Landlord received $400.00 in cash, I accept that the Tenant was properly served with this notice to end the tenancy. The Tenant has confirmed vacating the rental unit on February 1, 2013. I find on a balance of probabilities based upon the evidence of both parties that I prefer the evidence of the Landlord over that of the Tenant. I find it unlikely that the Landlord would refuse rent payment when it was offered to him. The Landlord has established a monetary claim for $1,400.00 in unpaid rent and loss of rental income. The Landlord has satisfied me that upon vacating the rental unit, the Tenant did not provide any notice to vacate. The Landlord has provided testimony of attempts to mitigate any losses by attempting to re-rent the unit.

The Landlord has established a monetary claim for $1,400.00. The Landlord is also entitled to recovery of the $50.00 filing fee. The Landlord is granted a monetary order for $1,450.00.

Conclusion

The Landlord is granted a monetary order for $1,450.00.

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: February 12, 2013

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Residential Tenancy Branch