



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a notice to end tenancy for unpaid rent.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary Issue

At the outset of the hearing the parties agreed the tenant vacated the unit on January 19, 2013, as a result the tenant's application to cancel the notice to end tenancy and the landlord's application for order of possession is no longer required to be heard at today's hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?
Is the landlord entitled to keep all or part of the security deposit?

Background and Evidence

The tenancy began on June 28, 2012. Rent in the amount of \$1,250.00 was payable each month and rent was divided in two equal payments payable on the 15th and 30th of each month. A security deposit of \$700.00 was paid by the tenant.

The landlord testified the tenant has not paid any rent for any rent for December 2012 and January 2013 and seeks compensation for unpaid rent.

The tenant testified that she does not owe any rent as she had paid one month in advance at the start of the tenancy and has the original receipt to prove this.

The landlord dispute the tenants claims and states she has all the receipts issued to the tenant.

As both parties confirmed the landlord has provided receipts throughout the tenancy, I reserved my decision at the hearing and both parties were ordered to provide copies of the receipts for rent that were in their possession for my consideration. The tenant was also ordered to provide the original receipt that shows an advance payment of rent that she alleged to have in her possession.

The parties were order that the receipts must be submitted no later than 4:00 pm on February 1, 2013, to the Residential Tenancy Branch. The parties were also informed my final decision would in writing and my decision would be based on the testimony of the parties at the hearing and the receipts submitted by the parties.

The only documents received by the Residential Tenancy Branch were receipts from the landlord, which I have reviewed and considered.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, the evidence of the tenant was that she did not pay rent for December 2012 and January 2013, due to paying one month in advance at the start of the tenancy. The landlord disputed any advance payments of rent.

Both parties were given an opportunity to submitted documentary evidence, in the form of receipts as both parties agreed the landlord provided receipt throughout the tenancy. The only documentary evidence received was from the landlord.

I accept the landlord version of events over the tenants for the following reasons. The tenant claimed she had a receipt which would prove an advance payment, however, the tenant was ordered to submit that receipt for my consideration. The tenant did comply with my order and it would be reasonable to conclude that base of the tenant's failure to comply with my order that the receipt does not exist.

Further, I have reviewed and considered the receipts submitted by the landlord and there is no advance payment of rent as alleged by the tenant. Therefore, I find the landlord is entitled to recover unpaid rent for December 2012 and January 2013, in the amount of **\$2,500.00**.

I find that the landlord has established a total monetary claim of **\$2,550.00** comprised of the above described amount and the \$50.00 fee paid for this application.

I order that the landlord retain the deposit and interest of **\$700.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,850.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court

Conclusion

The landlord is granted a monetary and may keep the security deposit in partial satisfaction of the claim, and I granted the landlord a formal order for the balance due.

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: January 02, 2013

Residential Tenancy Branch

