



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, NDC, OPR, MNR, FF

Introduction

This was a hearing with respect to applications by the tenant and by the landlord. The tenant applied to cancel a 10 Day Notice to End Tenancy for unpaid rent. She also requested a monetary order. The landlord applied for an order for possession and a monetary order for unpaid rent. The applications were heard together by conference call. The tenant and the landlord attended and the landlord was represented by her daughter, who was also a witness.

Issue(s) to be Decided

Should the Notice to End Tenancy dated March 22, 2013 be cancelled?

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary order for unpaid rent?

Is the tenant entitled to a monetary award for moving expenses and compensation for harassment?

Background and Evidence

The rental unit is a coach house on the landlord's property in Surrey. The landlord lives in the main house on the property. The landlord and her daughter, who also lives with the landlord and was involved with the tenant, testified that on February 20, 2013 the tenant responded to a sign at the property advertising the unit for rent. The landlord showed her the unit and the tenant told her that she liked it and wanted to rent it and take possession immediately. The landlord agreed to rent the unit to the tenant at a monthly rent of \$775.00. The landlord testified that the tenant signed a tenancy agreement prepared by the landlord and paid \$775.00 rent in cash and the landlord gave her a handwritten receipt for the payment. The tenant was supposed to provide a security deposit and she told the landlord that she was waiting for her pay cheques and

would pay the deposit as soon as she received it. The tenant never provided a deposit and soon after the tenant moved into the rental unit the landlord discovered that she had pets, including a cat, a rabbit and later the landlord found that the tenant had a dog. The tenant told the landlord that the dog belonged to a friend, but the dog has been at the rental unit continuously since the tenant moved in. The landlord told the tenant that she had to provide a pet deposit. The tenant has not paid either a security deposit or a pet deposit.

The landlord's daughter testified that the tenant did not pay rent when it was due on March 20th. The landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent on March 22, 2013 by posting it to the door of the rental unit. The tenant applied to dispute the Notice to End Tenancy on March 26, 2013. In her application she stated that on February 20, 2013 she paid the landlord March and April's rent with a pet deposit of \$300.00. In her application she said that the landlord bothered her on March 18th wanting the tenant to pay more money and demanding that she pay an additional \$775.00

On April 16, 2013 the tenant submitted some documentary evidence to the Residential Tenancy Office. Included in the evidence was a carbon copy of a receipt from a book of receipts that was dated February 20, 2013. The receipt stated: "Received from(name of Tenant) One Thousand Five Hundred Fifty Dollars \$1,550.00 March + April Rent" With the landlord's name written at the bottom. The landlord and her daughter testified that the tenant did not provide this evidence to them and that the receipt was not given by the landlord and must be a forgery or a fake document. The tenant said that she gave the evidence to the landlord, but she was vague about when she did so.

The landlord and her daughter testified that the tenant did not produce any picture identification when she rented the unit in February. When the landlord demanded to see some identification the tenant produced an identification document in the name of the tenant, but with a picture that could not be made out and was not a picture of the tenant. The landlord contacted the police about concerns she had with the tenant. She testified that the tenant was using an alias and the name given by the tenant was not her real name. The police told the landlord that the tenants real name was N.W.

Analysis

I did not find the tenant's testimony to be credible or convincing. She testified that she paid a deposit and two months' rent in advance at the insistence of the landlord. The landlord said that the tenant paid only the current month's rent and failed to pay a

security deposit because she did not have the necessary funds at the time. It is not common practice for a tenant to pay two months' rent in advance together with a security deposit and the *Residential Tenancy Act* prohibits such a practice. I find the landlord's version of events to be more likely correct, since it accords with the likely behaviour of a tenant in poor financial circumstances and because of my finding with respect to the tenant's documentary evidence. I examined the copy receipt provided by the tenant and after comparing it to the tenant's writing in her application I have concluded that the writing on the receipt bears peculiarities found in the tenant's handwriting. I find that the receipt produced by the tenant was created by her and that she did not provide a copy to the landlord because it was so obviously concocted by the tenant. I find that the tenant failed to pay rent that was due on March 20, 2013 in the amount of \$775.00 and that there is no basis to the tenant's application to cancel the Notice to End Tenancy. I find as well, that there is no merit to the tenant's application for a monetary order. The tenant's application is dismissed without leave to reapply. I accept the landlord's testimony that the tenant did not pay a security deposit or a pet deposit.

Section 55 of the *Residential Tenancy Act* provides as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and
 - (b) the director dismisses the tenant's application or upholds the landlord's notice.

I have dismissed the tenant's application to dispute the landlord's Notice to End Tenancy. The landlord has applied for an order for possession and a monetary order for unpaid rent. Pursuant to section 55 I grant the landlord an order for possession effective two days after service on the tenant. This order may be registered in the Supreme Court and enforced as an order of that court.

The landlord claimed a monetary order including unpaid rent of \$775.00 and 25% of utilities. The landlord has not provided proof that the tenant was responsible for payment of a portion of the utilities and I allow the landlord's claim for unpaid rent, but not for utilities. The landlord is entitled to recover the \$50.00 filing fee for her

application for a total award of \$825.00 and I grant the landlord a monetary order under section 67 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court.

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: April 24, 2013

Residential Tenancy Branch

