



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Carrera Management Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation – Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on January 15, 2013. Rent of \$1,380.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a

security deposit from the Tenant in the amount of \$690.00. The Tenant failed to pay rent for May 2013 and on May 2, 2013 the Landlord personally served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice"). The Tenant paid the full rent outstanding in cash to the Landlord through a third party and the Landlord provided a receipt. The Landlord did not indicate on the receipt that the monies were taken for use and occupancy only. The Landlord then emailed the Tenant to inform the Tenant that the Landlord would prefer if the Tenant would move out.

Analysis

Section 46 of the Act requires that upon receipt of a Notice the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the landlord accepts rent after the effective date of the Notice the intent of the Parties will determine whether the tenancy has been reinstated.

Given the Landlord's evidence that full rent was accepted as paid in full, that the Tenant was not given a receipt for the payment of rent indicating that the amount was being accepted for use and occupancy only, and that the Landlord emailed the Tenant after receipt of the full rent informing the Tenant that the Landlord would prefer if the Tenant moved out, I find that the Landlord has reinstated the tenancy and that the Notice is no longer valid. The tenancy continues. The Landlord's application is dismissed.

Conclusion

The Landlord's application is dismissed.

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: May 27, 2013