



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, CNR, MDSD & FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was sufficiently served on the Tenant by posting on June 12, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy?
- b. Whether the landlord is entitled to an Order for Possession?
- c. Whether the landlord is entitled to A Monetary Order and if so how much?
- d. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- e. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on June 1, 2013. The rent was \$600 per month payable on the first day of each month. The tenant testified that he paid rent of \$400 for June leaving a balance owing of \$200. The landlord testified the tenant paid \$100 in rent and a \$300 security deposit. The tenant vacated the rental unit on July 8, 2013.

Analysis

Tenant's Application to Cancel the 10 day Notice to End Tenancy:

I dismissed the Tenant's application to cancel the 10 day Notice to End Tenancy as the Tenant has vacated the rental unit and does not wish to reinstate the tenancy.

Landlord's Application - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the tenant has vacated the rental unit and the landlord has regained possession.

Landlord's Application - Monetary Order. Security Deposit and Cost of Filing fee

It is not necessary to make a determination as to whether \$300 paid was to be applied to the rent or a security deposit. If it was a security deposit it would be applied to the rent in any event. I determined that tenant owes the landlord \$200 for June after deducting the \$400 payment. The tenant left his belongings in the rental unit for the first 8 days of July and is responsible to pay the rent for that period in the sum of \$155. I dismissed the landlord's claim for the balance of the rent for July with liberty to re-apply as that claim is premature. The landlord has legal obligation to attempt to mitigate his loss and it is possible he will re-rent the rental unit and not suffer a loss.

As a result I ordered the tenant to pay to the landlord the sum of \$355 plus the sum of \$50 in respect of the filing fee for a total of \$405.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal

Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: July 11, 2013

Residential Tenancy Branch