



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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 10 day Notice to End Tenancy was sufficiently served on the Tenants by posting on October 2, 2013. I further find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on each of the Tenants by mailing, by registered mail to where the Tenants reside on October 22, 2013. 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 landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on March 1, 2013, end on August 31, 2013 and become month to month after that. The rent is \$1400 per month payable on the first day of each month. The Tenants paid a security deposit of \$700 at the start of the tenancy. The tenant(s) failed to pay the rent for the months of October (\$350 is outstanding) and November (\$1150 is outstanding until November 26, 2013) and the sum of \$1500 remains owing. The tenants vacated the rental unit on November 16, 2013. The landlord was able to re-rent the rental unit with the new tenant taking possession on November 26, 2013

The tenants testified that they gave the landlord notice on October 15, 2013 to be effective on November 15, 2013. The Residential Tenancy Act provides that the Notice must be a clear month notice given on or before the end of the rental payment period to be effective at the end of the ensuing rental payment period. Thus the Notice given October 15, 2013 was not effective until November 30, 2013.

Analysis - Order of Possession:

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

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of October (\$350 is outstanding) and November (\$1150 is outstanding) and the sum of \$1500 remains owing. **I granted the landlord a monetary order in the sum of \$1500 plus the sum of \$50 in respect of the filing fee for a total of \$1550.**

Security Deposit

I determined the security deposit plus interest totals the sum of \$700. **I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$850.**

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: November 29, 2013

Residential Tenancy Branch

