



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CND, MNDC , OPC, MND, MNDC, FF, O

Introduction

In the first application the tenant seeks to cancel a one month Notice to End Tenancy for cause and a monetary award for damages alleging harassment and unreasonable disturbance.

In the second application the landlord seeks an order of possession pursuant to the Notice and a monetary award for damages alleging damage to the suite.

Prior to the hearing counsel for the landlord filed a letter indicating that all matters had been resolved and that the hearings could be cancelled. Fortunately, that message had not reached me by hearing time. Both the tenant and the landlord's counsel attended at the appointed time, the tenant alleging that she has not settled her monetary claim and seeking to proceed with it.

It appears that the parties have reached agreement about a number of issues between them. They agree that an arrangement has been made whereby they signed a mutual agreement to end tenancy; that the tenant has been paid \$300.00 due under a prior monetary order; that the tenant vacated on January 8th and the landlord paid an agreed \$500.00 to facilitate her move; and that the landlord agreed to repay the tenant her security deposit in full if she left by January 9th; she did and the deposit has been returned to her.

Counsel for the landlord indicates that he has emails between the parties to show that the settlement arrangement was a settlement of all matters outstanding between the parties and that would include the tenant's claim for damages at this hearing.

As pointed out at hearing, it is, I believe, the general rule that unless otherwise indicated a settlement agreement is taken to resolve all extant issues between the parties as of the date of the agreement.

In the circumstances of this case, it would be unfair to require the landlord to defend against a claim he thought was settled or to require him to prove the all encompassing nature of the settlement.

I dismiss both claims, but with leave for the tenant to re-apply in regard to her monetary claim and, as well, with leave for the landlord to re-apply in regard to his monetary claim. If either or both re-apply then the nature and extent of the settlement that has been reached, can be defined and enforced.

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 10, 2014

Residential Tenancy Branch

