



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WHEELER CHEAM REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OPR, MNR, ERP, RP, RR

Introduction

This hearing was convened by way of conference call in response to an application made by both the landlord and tenants. The landlord applied for an Order of Possession and a Monetary Order for unpaid rent or utilities. The tenants applied: to cancel the notice to end tenancy; for the landlord to make repairs to the unit site or property and for emergency repairs for health or safety reasons. The tenants also applied for a reduction in rent for repairs, services or facilities agreed upon but not provided.

One of the landlords appeared for the hearing along with both tenants. No issues in relation to the service of the hearing documents and documentary evidence under Residential Tenancy Act (referred to as the Act) were raised by any of the parties.

Analysis & Conclusion

During the hearing the tenants explained that they had not paid rent for December 1, 2013 because the landlord had not made repairs to the rental suite despite repeated requests and felt that by withholding rent was the only way to get his attention.

Section 26(1) of the Act states that a tenant must pay rent when it is due under the tenancy agreement whether or not the landlord complies with the Act, the regulation or the tenancy agreement. As a result, the landlord and tenants agreed to settle their respective disputes pursuant to section 63 of the Act which states that an Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. Therefore, an agreement was made under the following terms:

1. The landlord and tenants agreed that the tenancy will end at 1:00 p.m. on January 31, 2014.
2. The tenants agreed to pay the landlords unpaid rent for December 30, 2013 and rent due for January, 2014 in the amount of \$2,400.00 as well as the late fee

incurred by the landlords for a returned cheque relating to December, 2013 rent payable as part of the addendum to the written tenancy agreement.

3. The tenants agreed to the landlords being issued with a conditional Order of Possession effective for January 1, 2014 which is enforceable if the tenants fail to pay the above amount on January 1, 2014 or if the tenants fail to vacate the rental suite on January 31, 2014.
4. The landlords are also issued with a Monetary Order in the amount of \$2,425.00 which is enforceable if the tenants fail to pay the landlords this amount on or before January 1, 2014 in the form of a cashier's cheque.
5. The landlord agreed to return to the tenants' remaining post dated cheques.
6. The landlord provided the tenants with the name and contact details of his electrician so that the tenants could contact the electrician at their convenience to make lighting repairs.

As the tenancy is ending and no evidence was heard regarding the tenants' claim for a reduction in the rent for repairs, service or facilities agreed upon but not provided, the tenants were informed that they are at liberty to make an application for monetary compensation for damage or loss under the Act. The landlord and tenants are both cautioned that the rights and obligations for the return of the security deposit at the end of the tenancy are still in effect.

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlords effective **January 1, 2014 at 1:00 p.m.** I also grant the landlords a Monetary Order in the amount of **\$2,425.00.**

These orders are final and binding on the parties and may be enforced if the above terms of the agreement are not complied with.

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: December 27, 2013

Residential Tenancy Branch

