



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remax Little Oak Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, MNDC, ERP, RP, RR, OPR, MNR, MNSD, FF

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*).

The tenant applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make repairs and emergency repairs to the rental unit pursuant to section 33; and
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;

The landlord applied for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to discuss their applications with one another. The tenant confirmed that the landlord's representative at this hearing (the landlord) handed her the 10 Day Notice on January 23, 2014. The landlord confirmed that the tenant handed one of the landlord's office staff a copy of the tenant's dispute resolution hearing package on or about January 31, 2014. The tenant confirmed that on February 24, 2014, she received a copy of the landlord's dispute resolution hearing package and written evidence sent by the landlord by registered mail on February 21, 2014. I am satisfied that the parties served one another with the above documents in accordance with the *Act*.

Both parties agreed that this tenancy has ended and there was no need for a consideration of those portions of their applications relating to either the landlord's 10 Day Notice or the tenant's application for repairs, which have also been completed. The tenant testified that she vacated the rental unit on or about February 23, 2014. The landlord testified that he discovered on March 12, 2014, that the tenant had abandoned the rental unit without leaving him her keys. The tenant did not deny the landlord's claim that she has neither paid any rent since the beginning of this year nor has she returned her keys to the rental unit.

Issues(s) to be Decided

Are either of the parties entitled to monetary awards with respect to this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant? Should any other orders be issued with respect to this tenancy?

Background and Evidence

This periodic tenancy began on December 1, 2013. Monthly rent was set at \$925.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$462.50 security deposit paid in two installments by November 26, 2013.

The tenant stopped paying rent in January 2014, as a result of the landlord's alleged refusal to repair the portion of this rental unit heated by gas. The landlord entered into written evidence a copy of an invoice and material demonstrating that the repairs to the gas heating system were completed by January 31, 2014.

Analysis

Pursuant to section 63 of the *Act*, the 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. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to a settlement of all issues arising out of their applications and this tenancy under the following final and binding terms:

1. The tenant agreed to pay the landlord a total of \$975.00. The tenant agreed to satisfy this monetary settlement of their dispute by commencing monthly payments of \$200.00 to the landlord on April 20, 2014, and further monthly payments in that amount on the 20th of each ensuing month until the \$975.00 has been paid in full.

2. The tenant agreed to allow the landlord to retain her security deposit.
3. Both parties agreed to withdraw their applications relating to the landlord's 10 Day Notice as this tenancy has ended.
4. The tenant agreed to withdraw all portions of her application for dispute resolution.
5. The landlord agreed that the monetary terms outlined in this settlement agreement constituted a final and binding resolution of all of the landlord's claims for a monetary award for this tenancy.
6. The tenant agreed to provide the landlord with all keys to the rental unit by 5:00 p.m. on March 19, 2014.
7. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues arising out of their applications and this tenancy, and furthermore agreed that they will not initiate any further action of any kind with respect to this tenancy.

Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$975.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by the terms of the above settlement. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

As discussed at this hearing and as per the terms of their settlement agreement, I order the landlord to retain the tenant's security deposit plus applicable interest. No interest is payable over this period.

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: March 17, 2014

Residential Tenancy Branch

