



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR & 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 Tenant by posting on March 20, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other.

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 recover the cost of the filing fee?

Background and Evidence

The parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on May 1, 2013, end on May 1, 2014 and become month to month after that. The rent is \$1550 per month payable on the first day of each month. The tenant paid a security deposit of \$775 at the start of the tenancy.

The tenant failed to pay the rent for the months of March and April and the sum of \$2700 remains owing. The tenant vacated the rental unit on April 17, 2014.

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

The tenant vacated the rental unit and is no longer interested in an order cancelling the 10 day Notice to End Tenancy. As a result I ordered that the tenant's application be dismissed.

Analysis - Order of Possession:

The landlord has regained possession and it is no longer necessary to consider the landlord's application for an Order for Possession.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of March and April and the sum of \$2700 remains outstanding. The tenant acknowledged she failed to pay the rent for these two months and did not dispute the monetary order being made against her for the outstanding rent.

The Residential Tenancy Branch received a document from the landlords on May 6, 2014 which was titled "Update to Case." That document purported to increase the claim to \$5980 plus the cost of the filing fee. The Registry did not process this document as an attempt on the landlords to amend the application. The landlord failed to serve this document on the tenant and she is not aware of the additional claims being made. I determine it was not appropriate to consider the additional claims made by the landlord and limited this decision to the claims made in the original Application for Dispute

Resolution filed by the landlords. The landlords have the right to file another application making the further claims as no decision has been made of those claims on the merits.

I granted the landlord a monetary order in the sum of \$2700 plus the sum of \$50 in respect of the filing fee for a total of \$2750.

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: May 15, 2014

Residential Tenancy Branch

