



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with applications from both the tenant and the landlord. The tenant applied to cancel a notice to end tenancy. The landlord applied for an order of possession and a monetary order for unpaid rent, for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement, and to recover the RTB filing fee.

Both the tenants and the landlord's agent attended the teleconference hearing and gave affirmed evidence. The parties agree that the tenancy ended on March 31, 2014 and so the tenant no longer seeks to cancel the notice to end tenancy and the landlord no longer seeks an order of possession. The only remaining issue between the parties is the landlord's claim for a monetary order.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement?

Background and Evidence

The tenancy agreement signed by the parties on June 29 and June 30, 2011 indicates the tenancy started on July 1, 2011. The tenancy agreement shows the name of the female tenant and the male tenant, and indicates the tenancy was a fixed term for one year then continuing on a month-to-month basis. The tenants were obligated to pay \$1,700.00 rent monthly in advance. The tenants also paid a security deposit of \$850.00.

The landlord claims the tenants did not pay rent for the months of February and March 2014 and this unpaid rent totals \$3,400.00. The landlord further claims that the tenants are responsible for strata fines and fees in the amount of \$400.00, hydro costs in the amount of \$432.62, and a cleaning fee of \$315.00.

The female tenant gave evidence that, after the fixed term expired, the landlord's agent contacted her and asked her to sign a new tenancy agreement. At that point, the female tenant advised the landlord's agent that the male tenant had moved out and the female tenant was living alone in the rental unit.

The female tenant gave evidence that the landlord's agent emailed her a new tenancy agreement that had both the male tenant and female tenant names on it. The tenant says she signed it and returned it to the landlord's agent. She did not receive a signed copy back from the landlord's agent.

The landlord's agent gave evidence that she does not have a second tenancy agreement that is signed by both parties.

Analysis

Section 63 of the Act provides that the parties may settle all or part of their dispute in the hearing, and the director may record the settlement in the form of a decision or an order. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

1. That the landlord will reduce their monetary claim to \$3,832.62, representing the unpaid rent and hydro only;
2. The female tenant will make monthly payments against the debt starting as soon as she finds employment;
3. The female tenant will notify the landlord promptly when she finds employment.

At issue is whether the monetary order should be made against both tenants or only the female tenant.

I find that the female tenant and the landlord had an intent to enter into a second tenancy agreement, based on the draft second tenancy agreement which the landlord's agent emailed to the female tenant and which the female tenant signed. However, there is no evidence that the second tenancy agreement was finalized. The female

tenant signed a draft copy of the second tenancy agreement however there is no evidence that the landlord or the landlord's agent signed the draft second tenancy agreement.

I find that the intended second tenancy agreement did not come into being. For that reason, the first tenancy agreement is still in effect. The first tenancy agreement names both tenants. Since it was a joint tenancy, the tenants are jointly and severally liable for debts arising from the tenancy. The monetary order will therefore be against both tenants.

The amount due the landlord is \$3,832.62. I order that the landlord retain the security deposit of \$850.00 in partial satisfaction of the claim and I grant the landlord an order under Section 67 for the balance due of \$2,982.62. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The tenant's application is dismissed. I grant the landlord a monetary order for \$2,982.62.

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: June 05, 2014

Residential Tenancy Branch

