



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MDSD & FF

Introduction

A hearing was conducted by conference call in the presence of the landlord and in the absence of the Tenant although duly served. 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 personally served on the Tenant on August 8, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenant by mailing, by registered mail to where the tenant resides on August 26, 2014.

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 tenant is entitled to an order cancelling a 2 month Notice to End Tenancy?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to A Monetary Order and if so how much?

- e. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- f. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The tenant sub-let the rental unit from another tenant. The landlord was unaware the tenant was living in the rental unit. The third party vacated the rental unit in May 2014. The tenant paid the landlord rent of \$800 per month for the months of June and July I determined the tenancy between the landlord and tenant commenced on June 1, 2014 and was to continue on a month to month basis. The rent is \$800 per month payable on the first day of each month. The tenant also agreed to pay 30% of the utilities. The tenant did not pay a security deposit. The tenant(s) failed to pay the rent for August. He vacated the rental unit at the end of August.

Tenant's Application to Cancel a 10 day Notice to End Tenancy and a two month Notice to End Tenancy:

The tenant failed to attend the hearing and has vacated the rental unit. As a result I dismissed the tenant's application to cancel the 10 day Notice to End Tenancy and the two month Notice to End Tenancy.

Landlord's Application - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the tenant has vacated the rental unit and the landlord has regained possession.

Analysis - Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to \$800 for non-payment of the rent for August.
- b. I determined the landlord is entitled to 30% of the utility bills presented by the landlord for the following periods:

- Bill for the period June 11, 2014 to June 30, 2014 (30% of \$75.29 = \$22.59)
- Bill for the period July 2, 2014 to August 11, 2014 (30% of \$197.60 = \$59.28).
- I dismissed the claim for the bill for the period November 29, 2013 to April 10, 2014 because at that time the landlord did not have a tenancy agreement with the Tenant (he was a sub tenant at that time). The landlord has a claim against her tenant during that period.

I granted the landlord a monetary order in the sum of \$881.87 plus the sum of \$50 in respect of the filing fee for a total of \$931.87.

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: October 06, 2014

Residential Tenancy Branch

