



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was originally dealt with by way of a Direct Request Proceeding (a non-participatory hearing) in response to the Landlord's Application for Direct Request (the "Application"). The Application was made for an Order of Possession and a Monetary Order.

On November 6, 2014 an Interim Decision was made by me which explained that the Landlord's Application could not be progressed through a non-participatory hearing because the written tenancy agreement provided was incomplete.

However, it was determined that the required information and discrepancies on the tenancy agreement could be determined from both parties in a hearing. As a result, the Direct Request Proceedings were adjourned to this participatory hearing. Both parties were sent the Notice of Hearing letters detailing the date and time of this hearing.

Both parties appeared for the hearing and provided affirmed testimony. Apart from the Landlord's written evidence which was submitted for the non-participatory hearing, neither party submitted any written evidence prior to this participatory hearing.

At the start of the hearing no issues were raised with regards to the service of the Landlord's original Direct Request Application. The hearing process was explained and the parties were given a full opportunity to present their evidence, make submissions and cross examine the other party on the evidence provided.

Preliminary Issues

The Tenant confirmed receipt of the two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") from the Landlord dated October 18, 2014 and confirmed that she had not disputed the Notice although she had made efforts to pay rent to the Landlord after she was served the Notice.

The Landlord disputed this and submitted that he had provided an alternative method of payment to the Tenant.

The Tenant was questioned as to why she had not disputed the Notice based on her claim that the Landlord made it difficult to pay rent. The Tenant submitted that this was the first time she had come across this problem and did not know her rights in relation to the Notice.

The Tenant was pointed to the second page of the Notice which details the rights and obligations of the Tenant after being served with a Notice. The Tenant was also informed of Section 46(5) of the Act which states that if a Tenant fails to pay rent or make an Application to dispute the Notice within five days of receiving the Notice, then they are conclusively presumed to have accepted that the tenancy ends and must vacate the rental suite on the vacancy date of the Notice.

The Landlord and Tenant also provided conflicting oral evidence in relation to the amount of outstanding rent that had accumulated during this tenancy. However, neither party had submitted evidence to corroborate their testimony.

However, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of the dispute through mutual agreement.

Settlement Agreement

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.

The parties agreed to end the tenancy on **December 27, 2014** at which point the Tenant is required to vacate the rental suite. The Landlord is issued with an Order of Possession effective for this date.

The Landlord agreed to forego the outstanding rent and utilities in this tenancy to date, and in return the Tenant consented to the Landlord keeping her security deposit in the amount of \$550.00 in full satisfaction of the outstanding rent and utilities claimed by the Landlord during the hearing in the amount of \$3,600.00.

However, the Landlord is still at liberty to make an Application for damages to the rental suite or losses under the Act after the tenancy ends.

Conclusion

For the reasons set out above, I grant the Landlord an Order of Possession effective **at 1:00 pm on December 27, 2014**. This order may be filed and enforced in the Supreme Court as an order of that court if the Tenant fails to vacate the rental unit in accordance with the above agreement.

The Landlord may retain the Tenant's security deposit in full satisfaction of his monetary claim for unpaid rent and utilities made during this hearing.

Dated: December 15, 2014

Residential Tenancy Branch

