



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Codes: CNR, OPR, MNR, MNSD, FF

Introduction:

This was an application by the tenants to cancel a Notice to End the Tenancy for non-payment of rent dated October 2, 2014, as well as across application by a landlord for an Order for Possession and monetary Order for unpaid rent.

Issues:

Are the tenants entitled to any relief?
Is the landlord entitled to an Order for Possession and monetary Order?

Background and Evidence:

A hearing was conducted in the presence of both parties.
I find that the Notice to End a Residential Tenancy was served in person on the tenants on October 2, 2014. The parties admitted service of their applications.

The landlord testified that the tenancy began on September 15, 2014 with rent in the amount of \$ 900.00 due in advance on the first day of each month. The tenant paid a security deposit of \$ 400.00 on September 11, 2014. The landlord testified that the arrears from September through October are were \$ 1,350.00. The landlord testified that the tenant had not paid any rent for November as well.

The tenant admitted not paying any rent because she claimed there was a rodent infestation. The tenant admitted that she had not obtained permission to do so but testified that she was advised she could withhold her rent by "someone at the Residential Tenancy Branch." The tenant then disconnected abruptly after I advised her that a rodent infestation was not a lawful reason to withhold her rent. I requested a Telus operator to attempt to contact the tenant but the operator could not reach her to reconnect notwithstanding the elapse of another 15 minutes.

Analysis:

The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes rent is owed or where the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from the rent.

The tenants may have a remedy against the landlord for the alleged infestation but the tenants did not have permission of the landlord or a lawful reason for not paying the rent as contemplated by the Act.

Accordingly I have dismissed the tenants' application to cancel the Notice to End the Tenancy. I order pursuant to section 44 that the tenancy shall end on the date set out in the Notice. I granted the landlord an Order for Possession. I also found that the landlord has established a claim for unpaid rent totalling \$ 1,350.00 and the filing fee of \$ 50.00.

Conclusion:

I have dismissed the tenants' claim herein. I have granted the landlord an Order for Possession. This order may be filed in the Supreme Court and enforced as an Order of that Court. I order that the landlord retain the deposit and interest of \$ 400.00 and I grant the landlord an order under section 67 for the balance due of **\$ 1,000.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court. This Decision and all Orders must be served on the tenants as soon as possible.

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: November 18, 2014

Residential Tenancy Branch

