



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order and an order to keep the security deposit in partial compensation of the monetary claim. The landlord's agent and the tenant participated in the teleconference hearing.

The hearing first convened on October 9, 2014. The tenant submitted evidence that she did not serve on the landlord, and I did not admit that evidence. However, the issue at hand was whether the tenant had failed to pay the rent within five days of having been served with the notice to end tenancy, and the tenant stated that her inadmissible evidence showed that she had paid the rent within the required time frame. I therefore determined that it was appropriate to adjourn the hearing and allow the tenant to serve her evidence on the landlord. The hearing reconvened on November 26, 2014, and the landlord's agent confirmed that he had received the tenant's evidence.

Issue(s) to be Decided

Is the notice to end tenancy valid?
Is the landlord entitled to monetary compensation?

Background and Evidence

The tenancy began on February 15, 2011, with monthly rent of \$490 due in advance on the first day of each month.

On August 2, 2014 the landlord served the tenant with a notice to end tenancy for unpaid rent. The tenant's evidence showed that she had paid her rent for previous months, up to and including July 2014, and she paid her August 2014 rent on August 5, 2014. The landlord's agent confirmed that he had no evidence to show otherwise.

The landlord's agent stated that the landlord told him that he had not yet received rent for November 2014. The tenant stated that she paid the landlord in cash on November 1, 2014, and the landlord issued her a receipt.

Analysis

The notice to end tenancy dated August 2, 2014 is void, as the tenant paid the full rent owing within five days of having received the notice.

The landlord did not provide sufficient clear evidence to establish that the tenant had not paid November 2014 rent, and I therefore did not grant the landlord a monetary order for any unpaid rent.

As the landlord's application was not successful, he is not entitled to recovery of the filing fee for the cost of his application.

Conclusion

The application of the landlord is dismissed.

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 26, 2014

Residential Tenancy Branch

