



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC, FF, O

Introduction

This hearing was set to hear an application by the tenant for orders setting aside a 10 Day Notice to End Tenancy for Non-Payment of Rent and a monetary order. Both parties appeared and had an opportunity to be heard.

At the beginning of the hearing the tenant advised that he had moved out of the rental unit and he agreed that an order of possession could be granted to the landlord.

Neither party filed any written evidence.

Issue(s) to be Decided

Is the tenant entitled to a monetary order and, if so, in what amount?

Background and Evidence

This month-to-month tenancy commenced in the spring of 2014. The tenant thought in mid-February or mid-March; the landlord said mid-April. The rent of \$500.00 was due on the first day of the month. The tenant paid a security deposit of \$250.00.

The tenant said he moved out of the rental unit by the end of September. Later in his testimony he said he moved out by mid-October. The tenant says he did not give any written notice to the landlord of when he was moving out but that he did give the key to the co-tenant. The landlord testified that his car was still parked there, the lights were on in the suite and neither they or the co-tenant have received a key.

The tenant testified that the Craig's List ad specified that covered parking was available. He was shown the rental unit by the co-tenant and they discussed the tenant's need for covered storage for his motorcycle. The tenant testified that the only reason he rented this unit was because garage space was available.

The tenant testified that he signed a tenancy agreement but never received a copy. He testified that the tenancy agreement did not make any reference to garage or carport. The tenancy agreement did contain a clause which required the tenant to do yard maintenance. He disagreed with this provision so initialled it for future discussion and then he signed the agreement.

The landlord's agent testified that she spoke to the tenant when he was renting the unit and told him very clearly that space in the garage was not included. She said the upstairs tenants had half of the garage for their use and her son was using the other half to restore a motor vehicle. She also testified that the co-tenant has never had access to the garage. The tenant challenged the witness's version of events by saying that the son did not put his car into the garage until September.

The landlord did offer the tenant the use of a small room at the back of the house for his storage. The tenant testified that his motorcycle did not fit into this area. As a result he had to leave it outside under a tarp all winter. As a result of condensation and other circumstances the motorcycle suffered damage.

In June the landlord or his family members spoke to the tenant about moving out because the landlord was moving back to the community and wanted to move into this suite. The tenant advised them that they had to give him written notice to end tenancy. They gave him a letter titled Two Month Notice to End of Rental Agreement.

The tenant filed an application for dispute resolution challenging the validity of the notice. The hearing was September 8, 2014 and a decision was issued the same day. The decision held that the document given to the tenant was not in the approved form and therefore was not valid to end the tenancy. The arbitrator ordered that the tenancy was to continue until ended in accordance with the legislation.

In the course of his decision the arbitrator explained that the approved form explains the rights and obligations of both parties under the legislation: "For example, the approved form explains the landlord must provide the tenant with the equivalent of one month of free rent when giving a two month Notice to End Tenancy for the Landlord's Use of the rental unit."

The parties agree that the landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use before the end of September and that the effective date of the notice was November 30. The tenant acknowledged that he did not pay the August, September or October rent.

The tenant claims \$800.00 as compensation for not receiving the covered storage promised in the ad for the suite.

Analysis

First of all, I found the tenant to be an unreliable witness. An example of the tenant's poor or inconsistent testimony is his evidence that he moved into the unit in the spring and his motorcycle spent the winter outside under a tarp. Whenever the testimony of the landlord and the tenant differ, I prefer the evidence of the landlord.

The tenant did not file a copy of the ad which he says indicated that covered storage was available. He signed a tenancy agreement which he says did not include covered storage as being included in the rent. He did not file any photographs or invoices to corroborate his testimony that the motorcycle was damaged during this tenancy. Finally, the landlord's witness, whose testimony I found more credible said she told the tenant at the outset that space in the garage or the carport was not included in this tenancy.

In his evidence the tenant argued that the landlord had intimidated him by bringing complaints about him to his attention. I do not accept the tenant's version of events and, even if they were true, I do not believe that he was at all intimidated or harassed by the landlord.

The tenant's claim is dismissed in full without leave to re-apply.

Conclusion

- a. An order of possession effective two days after service on the tenant is granted to the landlord.
- b. The balance of the tenant's claim is dismissed in full without leave to re-apply.

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 27, 2014

Residential Tenancy Branch

