



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RR

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end tenancy for unpaid rent or utilities and for an order reducing rent for repairs, services or facilities agreed upon but not provided.

An agent for the tenant attended and gave affirmed testimony, however, despite being personally served with the Tenant's Application for Dispute Resolution and notice of hearing documents on November 29, 2014, no one for the landlord attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the tenant's agent. The tenant's agent testified that he personally handed the hearing package to the landlord's husband while the landlord was also present, and the landlord's husband gave it to the landlord in the presence of the landlord's agent. I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

During the course of the hearing, the landlord's agent testified that the tenant moved out of the rental unit and therefore, I dismiss the tenant's application for an order cancelling the notice to end tenancy.

Issue(s) to be Decided

The issue remaining to be decided is:

- Has the tenant established that rent should be reduced for repairs, services or facilities agreed upon but not provided?

Background and Evidence

The tenant's agent testified that this month-to-month tenancy began on October 16, 2014 and the tenant moved out of the rental unit on November 30, 2014. Rent in the

amount of \$650.00 per month was payable in advance on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$325.00 which is still held in trust by the landlord.

The rental unit is a motel room that is rented on a month-to-month basis in the off-season from October to May, and the tenancy agreement specifies that the tenancy will not extend beyond the off-season. A copy of the tenancy agreement has not been provided for this hearing, however the tenant's agent testified that it states that the agreement falls under the *Innkeepers Act*.

The tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and a copy has been provided for this hearing. The tenant found it inside the rental unit, not posted to the door outside. The notice is issued under the *Residential Tenancy Act*, is dated November 11, 2014 and contains an expected date of vacancy of November 24, 2014 for unpaid rent in the amount of \$200.00 that was due on November 1, 2014. The tenant disputed the notice however on November 24, 2014 the landlord attended with a police officer to ensure that the tenant would move out that day. The tenant showed the notice of this hearing to the officer, and the officer declined to assist with removing the tenant.

The tenant's agent further testified that the rental unit was missing some basic necessities for hygiene and cleanliness, so the tenant purchased some items at a cost of about \$200.00 and deducted that amount from the rent for November, 2014. The items purchased included wastebaskets, a toilet plunger, a broom, indoor floor mats, dish scrubbers and dishtowels. The unit had no vacuum cleaner or broom, but did have a dust pan. There was a garbage can in the kitchen area, but not in the bathroom, living room or bedroom.

The tenant's agent further testified that after the police officer left on November 24, 2014 the landlord removed the sofa and the television from the rental unit in the presence of the tenant. The tenant went out for awhile and upon returning found that the bed, kitchen table, 4 chairs and the coffee table were gone and the electric base-board heaters were turned off. He also testified there was a cold snap during that time, and the tenant had no place else to go. The tenant slept on the floor in his sleeping bag until November 30, 2014 and then moved out.

The tenant seeks an order that no money for unpaid rent is due to the landlord. The tenant has not been served with an application for dispute resolution by the landlord.

Analysis

Firstly, I find that the tenancy falls under the *Residential Tenancy Act* by virtue of the fact that the landlord collected a monthly rent and a security deposit, and issued a notice to end tenancy under the *Residential Tenancy Act*.

There is no requirement under the *Residential Tenancy Act* for a landlord to provide any of the items that the tenant purchased. Also, there is nothing in the *Act* permitting a tenant to withhold rent even if the landlord hasn't complied with the *Act*.

The tenant has moved out of the rental unit, and has not been served with an application for dispute resolution by the landlord. With respect to the testimony of the tenant's agent that the landlord removed furniture from the rental unit prior to the commencement of this hearing, since the alleged incident took place after the tenant made the application for dispute resolution, I find that it is a separate issue from the application before me today.

There is no authority under the *Act* for me to order that the tenant doesn't owe the landlord money, but only to make a monetary order or reduce the rent. The tenant has not put the landlord on notice of an application for a monetary order, and therefore I decline to make any. With respect to the application before me, I find no basis on which I should make any orders.

Conclusion

For the reasons set out above, the tenant's application is hereby 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: December 19, 2014

Residential Tenancy Branch

