



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, CNR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent, dated March 11, 2015, ("10 Day Notice"), pursuant to section 46; and
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67.

Both parties attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses.

The tenant confirmed personal receipt of the landlord's application for dispute resolution hearing package ("Landlord's Application") on March 18, 2015. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the Landlord's Application.

The landlord confirmed that he did not serve any of his written evidence to the tenant. During the hearing, I advised both parties that I was unable to consider the landlord's written evidence at this hearing.

The tenant testified that he personally served the landlord's agent son with the tenant's amended application for dispute resolution hearing package ("Tenant's Application") on March 30, 2015. The landlord confirmed receipt of the Tenant's Application through his agent son and confirmed that he reviewed the application when he returned from out of town on April 15, 2015. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the Tenant's Application.

During the hearing, the landlord confirmed that the tenant had already vacated the rental unit. Accordingly, the landlord's application for an order of possession and the tenant's application to cancel the 10 Day Notice, are abandoned.

Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Is the tenant entitled to a monetary award for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

The landlord testified that this month to month tenancy began on December 1, 2014 and ended on April 10, 2015. The tenant testified that the tenancy ended on April 1, 2015. Monthly rent in the amount of \$775.00 was payable on the first day of each month. Both parties agreed that a security deposit of \$390.00 was paid by the tenant and the landlord continues to retain this deposit in full. A written tenancy agreement was provided with the Landlord's Application. Both parties agreed that no move-in or move-out condition inspection reports were completed for this tenancy. The tenant confirmed that he did not provide a forwarding address in writing at the end of this tenancy.

The landlord seeks a monetary order of \$1,620.00 for unpaid rent which includes \$70.00 for February 2015, \$775.00 for March 2015 and \$775.00 for April 2015. The landlord also seeks \$372.55 for cameras he bought from the tenant which he says he never received and \$170.00 for a personal loan he gave to the tenant to buy a car. The landlord also seeks to recover the \$50.00 filing fee for his application.

The tenant seeks \$5,000.00 as compensation for a loss of quiet enjoyment, the landlord providing an unsafe and insecure environment, and the landlord and his son assaulting the tenant of which criminal charges are currently pending before the courts. The tenant also claims for storage, moving and pet fees, medical injuries suffered, hospital visits and time lost from work to file his application.

During the hearing, I advised the parties that I did not have jurisdiction to decide the landlord's monetary claims with respect to the cameras and personal loan for the car. I advised the landlord that I was only able to decide his application with respect to the unpaid rent and the filing fee. Accordingly, this settlement decision deals only with matters relating to this tenancy, including the landlord's application for unpaid rent and the filing fee and the tenant's application for compensation relating to this tenancy.

Analysis

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. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues with respect to this entire tenancy:

1. Both parties agreed that the landlord will retain the tenant's entire security deposit of \$390.00;
2. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both the Landlord's Application and the Tenant's Application at this hearing and any issues arising out of this tenancy;
3. Both parties agreed that they will not initiate any further claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise a full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties gave verbal sworn affirmation at the hearing that they understood and agreed to the above settlement terms free of any duress or coercion. Both parties testified that they understood and agreed that the above settlement terms are legal, final, binding and enforceable, settling all aspects of this dispute and arising out of this tenancy.

Conclusion

To give effect to the settlement reached between the parties, I order the landlord to retain the tenant's entire security deposit of \$390.00.

The landlord's application for an order of possession and the tenant's application to cancel the landlord's 10 Day Notice, are abandoned. The landlord's 10 Day Notice is cancelled and of no force or effect.

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: April 21, 2015

Residential Tenancy Branch

