



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Alder Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MNSD, MNR, MND, FF, OPC

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant also filed an application seeking to have the One Month Notice to End Tenancy for Cause set aside. Both parties confirmed that they exchanged and received each other's' documentation and evidence for this hearing. I am satisfied that both parties have acted in accordance with the service provisions of the Act and the Rules of Procedure. Both parties gave affirmed evidence.

Issues to be Decided

Is either party entitled to any of the above under the Act, regulation or tenancy agreement?

Preliminary Issue

At the outset of the hearing the tenant advised that he has moved out of the unit and no longer seeks to have the notice set aside, accordingly I dismiss the tenants' application in its entirety.

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about October 15, 2013. Rent in the amount of 915.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$450.00. The landlord stated that the tenant was served a One Month Notice to End Tenancy for Cause on April 22, 2015 with an effective date of May 31, 2015. The landlord stated that the tenant moved out some of his belongings in late May 2015.

The landlord stated that he has yet to receive the keys and that the tenant has left many items including a lot of garbage in the unit. The landlord stated that the tenant did not pay the rent for June. The landlord stated that he has incurred a loss of revenue for the month of June as he has been unable to show the unit due to the poor and cluttered condition it is in, as well as not having access to it. The landlord stated that at no time did the tenant advise him that he was moving out or that the landlord could take back possession of the unit. The landlord is seeking \$915.00 for the loss of revenue for June.

The tenant gave the following testimony. The tenant stated that he has moved out and has no intention of returning to the unit as he fears for his safety. The tenant stated that he is fearful of the landlord and that he thought he could stay in the unit until today's hearing. The tenant stated that he has taken all of his personal belongings and that the only items left are debris and garbage. The tenant stated that he feels that deposit is enough compensation for the landlord.

Analysis

Section 26 of the Act addresses the issue before me as follows:

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The tenant did not have an order from the Branch allowing him to withhold rent or an agreement from the landlord. The tenant was still obligated to pay the rent that was due even though the matter was scheduled for dispute resolution. In the tenants own testimony he confirmed that he didn't pay the rent or return possession of the unit to the landlord by May 31, 2015. In addition, the tenant sent the landlord a letter forbidding him to enter the unit and thereby restricting the ability of the landlord to make attempts to re-rent the unit as soon as possible. Based on the above I find that the tenant is responsible for the loss of revenue for the month of June that the landlord has incurred and find that the landlord is entitled to \$915.00.

As for the monetary order, I find that the landlord has established a claim for \$915.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$450.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$515.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$515.00. The landlord may retain the security deposit.

The tenants' application 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: June 10, 2015

Residential Tenancy Branch

