



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF, CNR

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The tenant also filed an application seeking the return of the security deposit, an order setting aside a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and the recovery of the filing fee. The tenant participated in the conference call hearing but the landlord(s) did not. The tenant presented evidence that the landlord was served with the application for dispute resolution and notice of hearing by personally serving them on May 11, 2015.

I found that the landlord had been properly served with notice of the tenant's claim and the date and time of the hearing and the hearing proceeded in their absence. The tenant was unaware that the landlord filed a cross application to be heard on this day at the same time as her application. As the landlord has chosen not to participate in this hearing and that there is no evidence before me that he served the tenant notice of his claim, I hereby dismiss the landlords' application. The tenant gave affirmed evidence.

Issues to be Decided

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

Background and Evidence

The tenancy began on or about April 1, 2015. Rent in the amount of \$1300.00 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 \$1300.00. The tenant stated that she has paid the landlord all the rent that is required. The tenant stated that the landlord gave her a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on May 6, 2015 for unpaid rent and utilities. The tenant stated the rent was paid in full prior to this date along with a \$250.00 lump sum payment for utilities. The tenant stated that the landlord refuses to provide receipts for any payments.

Analysis

I accept the tenant's undisputed testimony. The landlord issued the notice to end tenancy and bears the burden of proving their claim. The landlord did not serve the tenant with his claim or participate in this hearing. Based on the above I hereby set aside the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 6, 2015. The notice is of no effect or force. The tenancy continues on the original terms and conditions. As the tenancy is ongoing the security deposit is to remain with the landlord in trust until the tenancy ends; whereby if there is an issue, both parties may make an application if so needed.

As the tenant has been successful in her application she is entitled to the recovery of the \$50.00 filing fee. The tenant is entitled to a one time reduction of \$50.00 from the next rent payable to satisfy this claim.

Conclusion

The notice dated May 6, 2015 is set aside. The tenancy continues. The tenant is entitled to a one time reduction of \$50.00.

The landlords' 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 23, 2015

Residential Tenancy Branch

