



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, CNR, FF

Introduction

This hearing was convened to address claims by both parties. The tenant seeks an order setting aside a notice to end this tenancy and the landlords seek an order of possession and a monetary order. Both parties participated in the conference call hearing.

Issues to be Decided

Should the notice to end tenancy be set aside?
Are the landlords entitled to a monetary order as claimed?

Background and Evidence

Most of the facts are not in dispute. The tenancy began on March 1, 2015 and rent was set at \$600.00 per month. On or about July 18, 2015, the landlords served on the tenant a 10 day notice to end tenancy for unpaid rent (the "Notice"). The tenant did not pay rent in the months of July, August or September. The tenant argued that the agreement between him and the landlords was not binding because it was not in writing and claimed that he may not have been required to pay rent while he was looking for work, although he acknowledged that he had been looking for work throughout the tenancy and until July, had paid \$600.00 for each month of his tenancy.

The tenant claimed that the landlords had failed to perform maintenance in the rental unit, suggesting that this would entitle him to withhold his rent.

Analysis

While the Residential Tenancy Act (the "Act") requires that tenancy agreements be in writing, it does not state that verbal agreements are invalid. I find on the preponderance of the evidence that the parties had an agreement that the tenant was obligated to pay

\$600.00 per month in advance on the first day of each month, although in the months of March – June the landlords allowed the tenant to pay rent late. I find it unlikely that the tenant would have paid any rent in those months if he was not required to do so under the terms of the verbal agreement. I find that the tenant failed to pay rent in the month of July and I find he received the Notice on July 18. Even if the landlords failed to perform maintenance, and I make no finding on this allegation, section 26 of the Act states that the tenant is required to pay rent when it is due regardless of whether the landlord has complied with the Act. I find that the tenant had no legal reason to withhold rent and I find the landlord has grounds to end the tenancy. I therefore dismiss the tenant's application and grant the landlords an order of possession which may be enforced in the Supreme Court if required.

I find that the landlords are entitled to recover the rent which was wrongfully withheld in the month of July and I further find that the landlord was unable to re-rent the unit for August and September because the tenant failed to vacate the unit. I find the tenant should therefore be held liable for the landlords' lost income. I award the landlords \$1,800.00 in unpaid rent and lost income.

As the landlords have been wholly successful in their claim, I find they should recover the \$50.00 filing fee paid to bring their application for a total award of \$1,850.00. I grant the landlords a monetary order under section 67 for this sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenant's application is dismissed. The landlords are granted an order of possession and a monetary order for \$1,850.00.

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: September 08, 2015

Residential Tenancy Branch

