



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Top Dog Projects Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, FF
CNR, CNC

Introduction

This hearing concerns 2 applications:

- i) by the landlord for an order of possession for unpaid rent or utilities / a monetary order as compensation for unpaid rent or utilities / and recovery of the filing fee; and
- ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent or utilities / and cancellation of a notice to end tenancy for cause.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is a manufactured home located within a manufactured home park. The tenant does not own the manufactured home.

There is no written tenancy agreement for this tenancy which began on or about June 15, 2015. No rent was assessed for the period from June 15 to 30, 2015. Thereafter, monthly rent of \$1,200.00 was due and payable in advance on the first day of each month. No security deposit or pet damage deposit was collected.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated July 31, 2015. A copy of the notice was submitted in evidence. The date shown by when the tenant must vacate the unit is August 31, 2015, and reasons identified in support of its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- put the landlord's property at significant risk

Tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

Thereafter, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated August 06, 2015. The notice was served by way of posting to the unit door on that same date. A copy of the notice was submitted in evidence. The notice reflects that rent of \$1,200.00 was unpaid when due on August 01, 2015.

The tenant filed an application to dispute both of the above notices on August 10, 2015. The tenant claimed that she had direct deposited \$1,000.00 to the landlord's bank account following issuance of the 10 day notice. The tenant also testified that she had vacated the unit by the end of August 2015. As the tenant vacated the unit following issuance of the notices, she withdrew her application for dispute resolution. The tenant declined to provide a forwarding address during the hearing.

The landlord could not confirm whether the tenant had direct deposited \$1,000.00 into his bank account after issuance of the 10 day notice. Further, the landlord testified that the tenant has not returned the unit key, and that certain of her possessions remained in the unit until around mid - September 2015. The landlord testified that no new renters currently occupy the unit. As the tenant has now vacated the unit, the landlord withdrew his application for an order of possession. The landlord still seeks compensation for unpaid rent for August & September 2015, in addition to recovery of the filing fee.

Analysis

Based on the documentary evidence and the affirmed testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent or utilities dated August 06, 2015. The tenant claimed that she subsequently direct deposited \$1,000.00 into the landlord's bank account and then vacated. As the landlord was unable to confirm or dispute payment, the landlord's application for a monetary order as compensation for unpaid rent for August 2015 is dismissed with leave to reapply.

As to unpaid rent for September 2015, based on the conflicting testimony of the parties, I find on a balance of probabilities that the tenant effectively gave up possession of the unit effective September 15, 2015. In the absence of any evidence that the landlord undertook to re-rent the unit, I find that he has established entitlement to unpaid rent for the period from September 01 to 15, 2015 in the amount of **\$600.00** (\$1,200.00 ÷ 2).

As the landlord has withdrawn some aspect(s) of his application and has achieved limited success with the remaining aspect(s), I find that he has established entitlement to recovery of ½ the filing fee in the amount of **\$25.00** (\$50.00 ÷ 2).

Conclusion

The tenant withdrew her application for dispute resolution.

The landlord withdrew his application for an order of possession. The landlord's application for a monetary order as compensation for unpaid rent for August 2015 is dismissed with leave to reapply. Following from the above, pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$625.00** (\$600.00 + \$25.00). This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

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: October 13, 2015

Residential Tenancy Branch

