



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, O, OPC, MN, MNDC, FF

Introduction

In the first application the tenant Mr. J.D. seeks to cancel a ten day Notice to End Tenancy for unpaid rent and for other, unspecified relief. That application was not served on the landlord and as a result it is dismissed.

In the second application the landlord seeks an order of possession pursuant to a one month Notice to End Tenancy for cause served September 3, 2015 and for a monetary award for unpaid rent and a municipal bylaw ticket alleged to have been incurred due to the conduct of the tenants.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been filed on time and had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that this tenancy has ended as a result of the Notice? Is the landlord owed money for rent? Are the tenants responsible to the landlord for the municipal ticket?

Background and Evidence

The rental unit is a three bedroom house with a build in basement. The tenants argue that the basement was a separate rental unit, rented to a Mr. G.G., however, the landlord's reference to a written tenancy and evidence regarding the original arrangements satisfy me that the entire house was rented as a single accommodation.

The landlord is the applicant Ms. D.P. The applicant Mr. S.P., her son, is not the landlord.

The landlord purchased the property in April 2015. The tenants were residing there at the time. It is unclear when their tenancy started.

The monthly rent is \$1600.00, due on the 11th of each month. There is a disagreement about whether or not any deposit money was paid at the start of the tenancy.

The landlord testifies that her son Mr. S.P. collected the rent in August. She says he collected cash, without receipts, and that the tenants were \$200.00 short. The tenants deny it.

The parties agree that no rent money has changed hands for September rent.

The landlord produces a "Bylaw Offence Notice" from the municipality charging \$150.00 for "permit unsightly premises" saying that the tenants caused the fine by their conduct in leaving the yard unsightly.

The tenants say that they had to move their belongings into the yard because the landlord wanted them to move and that resulted in the fine.

Analysis

The landlord has issued a one month Notice to End Tenancy and the tenants have not applied to cancel it within the permitted time or at all. As a result, by operation of s. 47 of the *Residential Tenancy Act* (the "Act") they are "conclusively presumed" to have accepted the end of the tenancy.

This tenancy ended by operation of law on October 11, 2015. As there is no tenancy the landlord is entitled to an order of possession.

The landlord is owed \$1600.00 for rent that came due September 11, 2015.

The landlord's evidence about August rent payment is only second hand. In the face of the tenants' denial I find that the landlord has not proved on a balance of probabilities that the August rent was short and I dismiss this item of the claim.

The municipal bylaw enforcement officer attended the premises in July and the tenants were warned about the unsightly premises. The officer attended again on August 31, found the state of the premises to be unchanged and issued the offence notice.

Even if the tenants had a reasonable excuse for storing their good in the yard in July, they should have taken care of the unsightly premises by the end of August. They were aware of the offence notice by September 4, 2015 and had an opportunity to dispute it with the municipality. They did not.

In these circumstances I find that the tenants are responsible for the \$150.00 fine imposed by the municipality and I award that sum to the landlord.

Conclusion

The landlord will have an order of possession.

The landlord is entitled to a monetary award of \$1750.00 plus the \$50.00 filing fee.

The question of whether or not the tenants paid any deposit money is a question that was not fairly raised by the application. Therefore the landlord will have a monetary order against the tenants for the full award of \$1800.00. but the tenants are free to apply to show that deposit money was paid and should be offset against that order.

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: November 04, 2015

Residential Tenancy Branch

