



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the landlords: OPR OPC MNR MNSD MNDC FF

For the tenant: CNC CNL CNR MNR

Introduction

This hearing dealt with cross-applications of the parties for Applications for Dispute Resolution under the *Residential Tenancy Act* (the “Act”). On July 27, 2015, an Arbitrator wrote an interim decision which joined the cross-application file numbers included on the front cover of this Decision for ease of reference, to be heard as one combined application for dispute resolution. The Interim Decision dated July 27, 2015 should be read in conjunction with this Decision.

The landlords have applied for an order of possession for unpaid rent or utilities, for an order of possession for cause, for a monetary order for unpaid rent or utilities, for monetary compensation for damage or loss under the Act, regulation or tenancy agreement, to keep all or a portion of the tenant’s security deposit and pet damage deposit, and to recover the cost of the filing fees.

The tenant applied to cancel a Notice To End Tenancy for Landlord’s Use of Property, which the tenant indicated was in error, and should have read to cancel a Notice to End Tenancy for Unpaid Rent or Utilities, to cancel a Notice to End Tenancy for Cause, and for a monetary order for the cost of emergency repairs.

On August 24, 2015 the hearing commenced and was adjourned after the 10 Day Notice dated July 2, 2015 was cancelled. The adjournment was granted to provide additional time to hear the merits of the 1 Month Notice issued by the landlords dated May 27, 2015. I wrote an Interim Decision dated August 24, 2015, which should be read in conjunction with this Decision.

On November 3, 2015, the tenant attended the reconvened hearing while the landlords did not attend. After the 10 minute waiting period had elapsed, both of the landlords' applications were dismissed without leave to reapply as the landlords failed to present the merits of the 1 Month Notice and I had already cancelled the 10 Day Notice in my Interim Decision dated August 24, 2015.

On August 24, 2015, the tenant had withdrawn her application for a monetary claim for \$175 for emergency repairs as the tenant stated that she had already deducted that amount from the monthly rent, which had prompted the landlord to issue a 10 Day Notice that was ultimately cancelled on August 24, 2015. As a result, I have not considered the tenant's monetary claim for \$175.

The tenant testified that she vacated the rental unit on November 2, 2015 after being served with an order of possession which had an effective date of October 31, 2015 at 1:00 p.m. The two file numbers of the cross-application in which the order of possession was granted based on a 2 Month Notice being upheld has been included on the front page of this Decision for ease of reference.

Preliminary and Procedural Matters

On October 22, 2015, after this proceeding had been adjourned on August 24, 2015 and before the reconvened portion of the hearing to be held on November 3, 2015, a cross-application was heard and a Decision rendered which upheld a 2 Month Notice regarding the same tenancy and granted the landlords an order of possession with an effective date of October 31, 2015 at 1:00 p.m. The tenant confirmed that she was served with the Order of Possession but could not vacate the rental unit until November 2, 2015.

Although the tenancy ended on October 31, 2015 at 1:00 p.m. by way of an order of possession being granted and served upon the tenant, I will address the 1 Month Notice that remains before me at this proceeding.

Background and Evidence

On August 24, 2015, both parties were advised to attend at the reconvened hearing or their respective applications would be dismissed. As the landlords did not attend the reconvened hearing on November 3, 2015, the landlords' applications were dismissed without leave to reapply. As a result,, I cancel the 1 Month Notice dated May 27, 2015 as the landlords did not attend the reconvened hearing to present the merits of the five causes listed by the landlords on the 1 Month Notice. I note that this Decision does not

change the fact that the tenancy ended on October 31, 2015 at 1:00 p.m. by way of an order of possession being granted on the cross-application, the file numbers of which are referenced on the front page of this Decision.

Analysis

Based on the documentary evidence, the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

As noted in the Interim Decision dated August 24, 2015, the 10 Day Notice dated July 2, 2015 has been cancelled.

As the landlords did not attend the reconvened hearing to present the merits of the five causes listed on the 1 Month Notice, the 1 Month Notice dated May 27, 2015 has been cancelled.

The tenancy ended on October 31, 2015 at 1:00 p.m. based on an order of possession being granted on October 22, 2015 and served on the tenant. The tenant confirmed that she vacated the rental unit on November 2, 2015.

Conclusion

The landlords' applications are dismissed in full, without leave to reapply. I do not grant the landlords the recovery of their filing fees as a result.

The tenant's applications are both successful. The tenancy ended as of October 31, 2015 at 1:00 p.m. as described above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 6, 2015

Residential Tenancy Branch

