



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kandola Ventures Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by two agents for the landlord and one of the tenants.

This matter was originally heard through the *ex parte* process of Direct Request through which the landlord was granted a monetary order in the amount of \$400.00 for unpaid rent and an order of possession in a decision written on September 16, 2015.

In response to the tenants' Application for Review Consideration an arbitrator granted, on September 25, 2015, a new hearing that was scheduled to be heard on October 9, 2015. Due to administrative delays the arbitrator who heard the hearing of October 9, 2015 adjourned the hearing to December 10, 2015 to ensure both parties had sufficient time to be prepared and attend the hearing.

At the outset of the hearing on December 10, 2015 the parties confirmed the tenants had vacated the rental unit. As a result, I find the landlord no longer requires an order of possession.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent, pursuant to Sections 26, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by both parties on March 8, 2015 for a 14 ½ month fixed term tenancy beginning on March 15, 2015 for a monthly rent of \$1,100.00 due on the 31st of each month with a security deposit of \$550.00 and a pet damage deposit of \$550.00 paid.

The landlord submits that on September 5, 2015 the landlord received from the tenants \$700.00 of rent for the month of September. The tenant submitted they sent the landlord an e-transfer on September 5, 2015 in the amount of \$400.00 that the landlord did not accept.

The parties agree the landlord issued, on September 1, 2015 a 10 Day Notice to End Tenancy for Unpaid Rent with an effective vacancy date of September 11, 2015 due to unpaid rent in the amount of \$1,100.00. The landlord submitted this Notice was served on the tenants personally on September 1, 2015 at 7:45 p.m.

The parties agree that to the date of the hearing the landlords have not received the payment of \$400.00.

Analysis

Based on the testimony of both parties I find the tenants attempted to make payment of the balance of their rent by e-transfer which was rejected by the landlord. Despite this rejection, I find it does not abrogate the tenants' obligation to pay the landlord.

While rejection of the payment may have invalidated the 10 Day Notice to End Tenancy issued on September 1, 2015 because the tenants attempted to make the payment prior to the 5 days allowed to do so once issued such a notice, I find that rejection does not invalidate the landlord's claim to the unpaid rent.

Conclusion

Based on the above, I order the portion of the decision issued on September 16, 2015 granting the landlord an order of possession and the order of possession are set aside, as the tenants have already vacated the rental unit.

Also based on my findings above, I find there is no reason to set aside or vary the portion of the decision granting the landlord a monetary order or the monetary order. As

such, I confirm the landlord is entitled to the monetary order in the amount of \$400.00 granted on September 16, 2015.

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: December 18, 2015

Residential Tenancy Branch

