



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, OPR, MNR, MNCD, RP, RR

Introduction

This hearing was convened in response to an application by the tenant **and** an application by the landlord.

The tenant sought to cancel a 10 Day Notice(s) for Unpaid Rent (Notice to End), an order for repairs and a monetary order for loss of use of a facility originally agreed to. The tenant advised they are still residing in the rental unit.

The landlord sought an Order of Possession due to unpaid rent, a Monetary Order to recover rental arrears.

The applicant landlord was provided with a copy of the Notice of a Dispute Resolution Hearing dated November 17, 2015. The landlord, however, did not attend the hearing set for today at 9:30 a.m. The phone line remained open and was monitored throughout the hearing. The only party to call into the hearing was the tenant. The tenant testified they were not aware there was an application from the landlord in this matter. The tenant did not receive the landlord's application.

The tenant testified they served the landlord with their Notice of Hearing package by Registered mail for which they provided the tracking number as stated on the style of cause / front page of this Decision. The tenant testified the mail was returned but appeared it had been opened and resealed and that the contents appeared to be copies of the original. I find the landlord was served with the tenant's application for this matter.

As the landlord has failed to appear to advance their own application, respond to the tenant's application, or request an Order for Possession as permitted by **Section 55(1)(a)** of the Act, I preliminarily **dismiss** the landlord's application, *without leave to reapply*. The hearing proceeded solely on the merits of the tenant's application.

Issue(s) to be Decided

Should the Notice(s) to End for unpaid Rent be cancelled?

Is the tenant entitled to the monetary amounts claimed?

Background and Evidence

The undisputed testimony of the tenant is that the tenancy began August 01, 2012. Rent in the amount of \$765.50 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$375.00. The tenant claims the landlord served them with a 10 Day Notice for Unpaid Rent in early October 2015 and again in early November 2015. The tenant testified they paid the landlord the rent with cheques which the landlord still holds. The tenant testified they seek to recover their cheques from the landlord before replacing them as the charge for placing a stop on the cheques is purportedly prohibitive for the tenant. The tenant testified there is a communication problem with the landlord which has resulted in non-resolution to most issues in this tenancy, including a misunderstanding regarding the payment of rent. The tenant claims that when they attempted to resolve the rent issue they were ignored by the landlord. The tenant aims to mutually resolve any matter respecting the payment of rent once in direct communication with the landlord.

The tenant further applied for compensation for loss of use of their refrigerator since mid-August 2015. To this day the tenant does not have a working refrigerator, although the landlord at some point dropped off a small bar fridge to the tenant, which they claim is woefully inadequate to accommodate their family. The tenant claims that in the absence of a refrigerator they have suffered inconvenience and added food costs.

The tenant further seeks for the landlord to repair the bathroom shower, which has not been operable for some time, as a result of no water service to the shower. The tenant testified they have notified the landlord several ways, to no avail, and in the interim have had to rely on communal and other facilities.

The tenant testified they are setting aside the balance of their claims on application.

Analysis

Based on the undisputed testimony of the tenant and the landlord's failure to attend this hearing - with the consequent dismissal of the landlord's application, **I hereby cancel** the landlord's Notices to End dated October 05, 2015 and November 05, 2015 with the effect that the tenancy continues.

Based on the undisputed testimony of the tenant I find the tenant has not had a standard operable refrigerator since mid-August 2015 and the loss persists. I grant the tenant 4% of the monthly rent *per week* for the past period of 18 weeks, in the sum amount of **\$551.16** (\$30.62 x 18). Should the tenant not be provided a standard operating refrigerator from hereon, the tenant has leave to reapply for additional compensation at \$30.62 for each week the rental unit is absent a standard operating refrigerator.

I find the tenant is entitled to an operable shower and the landlord is obligated to make repairs to the unit once notified. **Section 32** of the Act obligates the landlord to make repairs if required to make the rental unit suitable for occupation by a tenant. As the tenant has been without an operable shower for some time, **I Order** the landlord to repair the shower for the rental unit, forthwith, and **no later than December 31, 2015**. If the landlord does not comply with the Order the tenant has leave to reapply for compensation for loss of its use

Conclusion

The landlord's application is **dismissed**.

The landlord's Notices to End dated October 05, 2015 and November 05, 2015 are **null and of no effect**.

I grant the tenant a Monetary Order under Section 67 of the Act for the amount of **\$551.16**. The tenant can choose to collect on the Monetary Order through the Small Claims Court, **or** through reducing this amount from future rent payments. If necessary, this Order may be filed in the Small Claims Court and enforced as an order of that Court.

The landlord has been **Ordered** to make certain repairs to the rental unit shower, forthwith.

The tenant has leave to reapply as provided.

This Decision is final and binding on both parties.

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 14, 2015

Residential Tenancy Branch

