



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPC, OPR, MNR, MNSD, MND, FF

Introduction

In the first application the tenants seek to cancel a ten day Notice to End Tenancy for unpaid rent dated October 5, 2015. They have vacated the premises and so the question of the ten day Notice is no longer an issue in dispute.

In the second application the landlords seek an order of possession, also no longer an issue. As well they seek a monetary award of \$700.00 for unpaid rent and for damage to the rental unit.

At the time the landlords' application was made the tenants were still residing in the unit. No description of the damage was particularized in the landlords' application and the general details about it contained in material subsequently filed by the landlords had not been served on the tenants.

At hearing it was determined that the landlords' application for a monetary award for damage to the rental unit could not proceed for these reasons. The landlords are free to re-apply in that regard and I grant them any leave they might require to do so.

All parties but for Ms. J.L. 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 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 the landlords are entitled to a monetary award for rent or loss of rental income?

Background and Evidence

The rental unit is a three bedroom house. The tenancy started in December 2012. The monthly rent was \$1400.00, due on the first of each month. The landlords hold a \$700.00 security deposit.

The tenancy ended on September 30, 2015 as the result of a one month Notice to End Tenancy served in August. The tenants had intended to leave at the start of October but could not find a place to move to and finally vacated on or about October 26, 2015.

The landlord Mr. L. says that he discovered the tenants had left when on November 9 he received an email from the tenants telling him so.

During the tenancy it was the custom that the rent would be paid by cheques (one for each tenant I assume) sent to the landlords from the welfare office. In late September the landlords received the cheques for the October rent but did not deposit them. Mr. L. says that he thought the tenants were moving out. The landlords returned the cheques to the welfare office.

The tenant Ms. D.R. says that she could not get money from the welfare office for her move to a new place until the cheques was returned to the welfare office. It is her view that it took the landlords too long to return the cheque and that is why the tenants stayed so long in October.

Analysis

It is clear that the tenants were overholding their tenancy in October. As a result they are responsible for occupation rent or for the landlords' loss of rental income for that month. I find that to be the amount of \$1400.00.

The fact that the landlords received rent cheques from the welfare office for anticipated October rent is a matter for the tenants. The tenants' arrangement for rent payment is there business not the landlords'

It is not apparent to me that the landlords acted other than in a reasonable business manner in attending to the return of the cheques. It was not explained by the tenants why, if the cheques' return was vital, one of them did not retrieve and return them.

In any event, it does not appear that the landlords were informed of the importance of the immediate return of the cheques. Without having been warned, it is not reasonable

for the tenants to claim that the landlords were somehow responsible for the tenants' financial plight during October.

I award the landlords the loss of October rental income of \$1400.00, plus recovery of the \$50.00 filing fee. I authorize them to retain the \$700.00 security deposit in reduction of the amount awarded. There will be a monetary order against the tenants for the remainder of \$750.00.

Conclusion

The landlords' application is allowed.

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 05, 2015

Residential Tenancy Branch

