



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPE, OPR, MNR, MNSD, MNDC & FF

Introduction

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel the 10 day Notice to End Tenancy dated March 2, 2016
- b. An order that the tenant recover the cost of the filing fee

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. An Order for Possession on the basis the employment has ended.
- c. A monetary order in the sum of \$1832 for unpaid rent
- d. An order to retain the security deposit
- e. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the one month Notice to End Tenancy was personally served on the Tenant on February 29, 2016. I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on March 2, 2016. I find that the Application for Dispute Resolution/Notice of Hearing was filed by the Tenant was served on the landlord by mailing, by registered mail to where the landlord resides on March 4, 2016. I find that the Application for Dispute Resolution filed by the landlord was served on the Tenant by mailing, by registered mail to where the Tenant resides on March 12, 2016.

Tenant's Application:

The tenant vacated the rental unit on March 25, 2016 and returned the keys to the landlord on March 30, 2016. The tenant has no interest in reinstating the tenancy. As a result I ordered that the Tenant's application be dismissed without leave to re-apply.

Landlord's Application:

It is no longer necessary to consider the landlord's application for an Order for Possession as the Tenant has vacated the rental unit and the landlord has regained possession.

Issue(s) to be Decided

The issues to be decided in this hearing are as follows:

- a. Whether the landlord is entitled to A Monetary Order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written employment contract that provided the Tenant would work as the Resident Building Manager starting October 1, 2015. It further provided that Tenant would occupy the suite commencing November 1, 2015 and he would pay a monthly rent of \$916 per month (the market value of the rent was set at \$1375). The employment contract incorporates the provisions of the Residential Tenancy Act.

The landlord prepared a written tenancy agreement. However, the tenant failed to sign it and return it to the landlord.

The tenant's employment was terminated on effective February 29, 2016 and he was given a one month Notice stating the employment has ended and his unit is needed for a new employee.

The tenant vacated the rental unit on March 25, 2016 and returned the keys on March 30, 2016.

Analysis - Monetary Order and Cost of Filing fee:

After carefully considering all of the evidence I determined the landlord is entitled to the sum of \$916 for non-payment of the rent for March 2016. I do not accept the submission of the tenant that he is not bound by the tenancy agreement because he did

not sign it. It was the tenant's obligation as Resident Building Manager to ensure that all tenants (including him) signed and returned the tenancy agreement. The employment contract sets out the amount of rent that is owed and refers to the Residential Tenancy Act. I am satisfied an oral tenancy agreement existed here with the rent set at \$916 per month. Further, I do not accept the submission of the tenant that he is not obliged to pay the rent because the employment contract provided that the rent would be paid by the landlord deducting the rent from his wages in two equal monthly payments. The tenant is obliged to pay the rent for March 2016 even though he was not working for the company at that time.

I dismissed the landlord's claim for loss of rent for April. The landlord chose to end the tenancy and the tenant complied with the one month Notice to End Tenancy and vacated by the end of March. The landlord has not taken steps to find a new Resident Building Manager at this stage. I determined the tenant is not responsible to pay the rent for the period after the end of March 2016.

I granted the landlord a monetary order in the sum of \$916 plus the sum of \$50 in respect of the filing fee for a total of \$1016.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$458. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$558.

Conclusion:

I dismissed the tenant's application to cancel the 10 day Notice to End Tenancy as the tenant has vacated the rental unit and the landlord has regained possession. I dismissed the landlord's application for an Order for Possession as the landlord has regained possession.

I ordered that the Landlord shall retain the security deposit of \$458.

I further ordered that the Tenant pay to the Landlord the sum of \$558.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: April 08, 2016

Residential Tenancy Branch

