



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNR, MNSD, OPR, FF

Introduction

This was a hearing with respect to the landlord's application for a monetary order and an order of possession. The hearing was conducted by conference call. The landlord and the tenant called in and participated in the hearing. The landlord was also represented by a friend at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is a basement suite in the landlord's house in Mission. There was a previous dispute resolution proceeding regarding this tenancy. In a decision dated April 13, 2016 the tenant's application to cancel a Notice to End Tenancy for unpaid rent was granted. In the April 13, 2016 decision I made the findings that the tenancy agreement which provided for payment of monthly rent in the amount of \$1,000.00 was modified by an agreement that the tenant would perform services in exchange for a \$150.00 monthly rent reduction. The tenant's application to cancel a 10 day Notice to End Tenancy for unpaid rent was granted.

The landlord application was filed on March 30, 2016 and in her application she sought an order of possession and a monetary order pursuant to the same Notice to End Tenancy that was the subject of the April 13th decision.

At the hearing the tenant argued that he was only he was able to continue to pay reduced rent despite the fact that he was not performing services for the landlord because she was preventing him from performing the agreed services.

At the hearing the landlord said she did not want the tenant to perform services for her and she would give the tenant a notice that she no longer wished him to perform services for her.

Analysis

The Notice to End Tenancy which is the subject of the landlord's application has already been addressed in my April 13th decision. The landlord's application for an order of possession pursuant to that Notice to End Tenancy is dismissed without leave to reapply. The landlord's application for a monetary award is dismissed with leave to reapply. If the landlord makes a further application it will be up to a future arbitrator to determine whether, and if so, when the service agreement between the parties in lieu of rent has been terminated.

Conclusion

The application for an order of possession is dismissed. The application for a monetary award is dismissed with leave to reapply.

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: June 16, 2016

Residential Tenancy Branch