



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlords: OPR, OPC, MNR, MND, FF
 Tenants: CNC, RR, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlords sought an order of possession and a monetary order. The tenants sought to cancel a notice to end tenancy and an order to reduce rent.

The hearing was conducted via teleconference and was attended by both landlords and both tenants.

At the outset of the hearing the parties confirmed the tenants moved out of the rental unit on or before June 12, 2016.

As such I have determined that the landlords no longer require an order of possession and I amend their Application for Dispute Resolution to exclude the matter of possession.

In addition, as the tenants had applied to cancel a 1 Month Notice to End Tenancy for Cause and rent reduction but the tenancy has ended because the tenants have vacated the rental unit I find their Application for Dispute Resolution is moot and I decline to adjudicate their entire Application.

Finally, the landlords clarified at the outset of the hearing that they were seeking \$1,000.00 which included \$800.00 for rent for the month of June 2016 and \$200.00 for carpet cleaning. As the landlord has presented no evidence regarding the carpet cleaning and their Application for Dispute Resolution was made prior to the end of the tenancy I find the landlord's claim for compensation for damage to the rental unit is premature. I amend the landlords' Application to exclude the claim for compensation for damage to the rental unit.

Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to a monetary order for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application

for Dispute Resolution, pursuant to Sections 26, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenants submitted into evidence a tenancy agreement signed by the parties on February 16, 2016 for a month to month tenancy beginning in March 2016 for a monthly rent of \$800.00 with a security deposit of \$400.00 paid. The landlord testified that rent was due on the 1st of each month. The tenants did not dispute this statement.

The parties agreed the tenants did not pay any rent on June 1, 2016.

The tenants submit that they did not pay rent for several reasons including:

- The landlord had broken and not replaced two windows;
- The landlord had not reimbursed the tenants for their deductible for damage to their vehicle;
- The landlord had turned off the electricity and the tenants lost food in the refrigerator;
- The landlord had failed to complete a number of repairs that made the rental unit unsuitable and unsafe; and
- The landlord had broken into the rental unit; threatened the tenants and damaged their vehicle on May 15, 2016.

The tenants submitted that as result they were looking for another place to live and get out of the rental unit as soon as possible. The tenants also submitted that the landlord had issued them a 1 Month Notice that had an effective date of June 17, 2016. The tenants submit that for all of these reasons they felt they did not have to pay rent for the month of June 2016.

Analysis

Section 26 of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *Act*, the regulations or the tenancy agreement, unless the tenant has the right under this *Act* to deduct all or a portion of the rent.

The Act allows tenants to withhold rent if they have overpaid a security deposit; that have overpaid rent because of an invalid rent increase; they have completed emergency repairs; or they have an order from Arbitrator allowing them to do so.

From the submissions of the tenants I find they have provided no testimony or evidence that they had the right to withhold any rent payments.

In regard to the tenants position that the landlord had issued them a notice to end the tenancy on June 17, 2016 they should not have to pay, at least for the whole month, I note that the tenants had applied to dispute that notice. As such, if the tenants had been successful the tenancy would have continued and they would have been liable for rent for the full month of June 2016.

In addition, even if the tenants were not successful in their Application to cancel the notice because rent was due on the 1st of each month the earliest the landlord could have end the tenancy would have been June 30, 2016 and the effective date would have automatically been corrected by any arbitrator who found the notice to be effective.

For these reasons, I find the tenants have provided no allowable reasons under the *Act* to withhold any rent for the month of June 2016.

Conclusion

I find the landlords are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$900.00** comprised of \$800.00 rent owed and the \$100.00 fee paid by the landlord for this application.

This order must be served on the tenants. If the tenants fail to comply with this order the landlords may file the order in the Provincial Court (Small Claims) and be 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: June 23, 2016

Residential Tenancy Branch