



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

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

- a. An Order for Possession pursuant to a 2 month Notice to End Tenancy for landlord use of the property.
- b. An order to recover the cost of the filing fee

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

- a. An order for more time to make this application
- b. An order cancelling the two month Notice to End Tenancy dated March 14, 2016.
an additional rent increase

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.

Neither party filed the relevant evidence necessary to a determination of the issues raised in their application.

I find that the 2 month Notice to End Tenancy was personally served on the Tenant on March 14, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 2 month Notice to End Tenancy dated March 14, 2016.
- b. Whether the tenant is entitled to more time to make this application?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The parties entered into a written tenancy agreement that provided that the tenancy would start on December 15, 2015. Neither party presented a copy of the tenancy agreement at the hearing. The tenant testified it was for a one year fixed term. The landlord testified it was a month to month term. The rent is \$1700 per month payable on the first day of each month. However, the landlord testified he agreed that the tenant could pay on the 15th day of each month. The tenant paid a security deposit of \$850 at the start of the tenancy.

Tenant's Application:

I ordered that the 2 month Notice to End Tenancy dated March 14, 2016 be cancelled for the following reasons:

- The tenant testified it was for a one year fixed term. The landlord testified it was a month to month term. Neither party filed a copy of the tenancy agreement with the Residential Tenancy Branch and it is impossible to determine whether it was for a fixed term or a month to month.
- The grounds on the Notice to End Tenancy state it was for landlord use. However, the landlord told the tenant he intended to sell the property. I determined the landlord failed to establish a good faith intention to use the property for its intended purpose that was set out on the Notice.

As a result I ordered that the Notice to End Tenancy dated March 14, 2016 be cancelled and is null and void. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

Landlord's Application:- Order of Possession:

I dismissed the landlord's application for an Order for Possession and to recover the cost of the filing fee as the Notice to End Tenancy has been cancelled.

There is a dispute between the parties as to what rent was paid when. The landlord testified the tenant failed to pay the rent for April and May. The tenant disputes this saying he has a receipt for a payment made at the end of May. The landlord testified it was to be applied to the rent for April. Neither party exchanged copies of their receipts

or provided the Branch with the receipts. The parties are encouraged to sit down with each and show their receipts and other financial evidence with each other. If the rent has not been paid the landlord has the right to serve a 10 day Notice to End Tenancy on the basis of non-payment of rent.

Conclusion:

In summary I ordered that the 2 month Notice to End Tenancy dated March 14, 2016 be cancelled. I dismissed the landlord's application for an Order for Possession.

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 24, 2016

Residential Tenancy Branch