



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR OPT RR LAT DRI OLC

Introduction

Both parties attended the hearing and confirmed the Notice to End Tenancy was served by posting it on the door and the Application for Dispute Resolution was received by the landlord. I find the documents were legally served for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for unpaid rent pursuant to section 46;
- b) To dispute an increase in rent and to obtain a rent rebate;
- c) To order the landlord to comply with s. 29 of the Act and not enter the suite illegally;
- d) To obtain an Order of Possession for the tenant;
- e) To obtain permission to change locks on the unit due to illegal entry.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is unpaid rent so cause to end the tenancy? Or is the tenant entitled to relief?

Has the tenant proved on the balance of probabilities that there has been an illegal increase in rent and they are entitled to a rebate? Has the landlord entered the suite illegally? Should the tenant have permission to change the locks and obtain an Order of Possession for the tenant?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced June 15, 2015, it is a month to month tenancy, and a security deposit of \$350 was paid April 15, 2015. There is a lease in evidence confirming these facts.

The tenant said there was an illegal increase in rent to \$750. The landlord said he did not increase the rent but the tenant volunteered to pay an extra \$50 a month after her husband and mother-in-law moved in with her. The tenant said that was true but they

had left after a short time. The landlord said the tenant had paid no rent for June 2016 so he served her Notice to End Tenancy. The tenant said she paid \$700 cash as usual. Both parties confirmed that no receipts were ever issued. The tenant provided a bank statement showing a withdrawal of \$700 on May 3, 2016 but she provided none for June although she said she paid the rent on June 1, 2016 and filed her Application on June 3, 2016. She said she was advised by the office to submit evidence of payment so she provided the bank statement.

The parties had several issues of dispute and kept interrupting each other. The tenant then abruptly said she had already vacated on June 6, 2016 and wanted her security deposit back but she has provided no forwarding address in writing to the landlord. When the landlord said she had called the Police on June 8, 2016 from the suite, she said she made a mistake and it was June 9, 2016 she vacated. She no longer needs to cancel the Notice to End Tenancy or to have locks changed. The landlord denied illegal entry into her suite and said they knew nothing about money missing from her purse. She reported it to the Police and they are making enquiries.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

The tenant no longer applies to have the Notice to End Tenancy dated June 2, 2016 set aside as she has vacated. In respect to the disputed rent increase, I find insufficient evidence to support her statement that this was an illegal rent increase. I find the landlord's evidence more credible that she had her husband and his mother move in and offered to pay an extra \$50 a month. His credibility is supported by the tenant's agreement that this was true but that "they only stayed for about a month". I find insufficient evidence that the tenant paid any amounts illegally. Her May 2016 bank statement shows she withdrew \$700 on May 3, 2016 which the landlord said she paid them. I dismiss this portion of her claim.

In the matter of rent for June 2016, I find insufficient evidence to support the tenant's statement that she paid it on June 1, 2016. She submitted no bank statement for June and when queried, said she had withdrawn partial amounts to pay it. The landlord denied ever receiving payment. As I pointed out to him in the hearing, he is free to make an application to claim for unpaid rent and damages and the tenant will have an opportunity to dispute his claim and provide supporting evidence.

Regarding the application to change locks and to order the landlord to comply with section 29 of the Act, I find this is now irrelevant as the tenant has vacated the unit. I

dismiss this portion of her claim. I find insufficient evidence that the landlord entered her suite illegally.

In respect to the return of her security deposit, I find this is premature. As pointed out to her in the hearing, section 38 of the Act provides that the landlord has 15 days from the later of the tenant vacating and providing their forwarding address in writing to claim against the deposit. I find she has not provided a forwarding address in writing so her Application for the return of her security deposit is premature. The landlord began noting his claims for damages and was advised to file his own application to make any claims he might have.

Conclusion

I dismiss the tenant's application in its entirety but give her leave to reapply for the return of her security deposit after she has provided her forwarding address in writing to the landlord. No filing fee was paid so none is awarded.

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: July 06, 2016

Residential Tenancy Branch