



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPC, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with cross applications. The tenant filed to dispute a 1 Month Notice to End Tenancy for Cause. The landlord applied for an Order of Possession for cause and a Monetary Order for unpaid and/or loss of rent and authorization to retain the security deposit. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

At the outset of the hearing I heard that despite filing on July 15, 2016 the landlord did not serve the tenant with his Application until August 19, 2016. The hearing package was rejected by the tenant and given back to the landlord. Under section 59 of the Act, an applicant is required to serve the respondent within three days of filing and in any event at least 14 days before the scheduled hearing date. The landlord failed to meet his obligation to serve so as to give the tenant sufficient opportunity to respond and I dismissed the landlord's application with leave to reapply.

The hearing proceeded to deal with the tenants' application. Accordingly, I informed the parties that I would determine whether the 1 Month Notice should be upheld or cancelled and if the 1 Month Notice is upheld the landlord would be provided an Order of Possession.

The tenant pointed out that the landlord had not served her with any documentary evidence unless it was included in the package he gave to her on August 19, 2016. The landlord's deadline for serving evidence was no less than seven days before the hearing date. Since the landlord failed to meet this deadline I excluded the documentary evidence from consideration; however, I cautioned the parties that I would make a decision based upon oral testimony and that both parties are required to give truthful testimony. The parties affirmed that they would give truthful testimony.

The parties were also informed that I have the authority to assist them in reaching a mutual agreement. The parties turned their minds to entering into a mutual agreement to end tenancy during the remainder of the hearing and in that time they reached an agreement. By way of this decision and the Order of Possession provided with this decision I have recorded the terms agreed upon.

Issue(s) to be Decided

What are the terms of the mutual agreement?

Background and Evidence

The parties mutually agreed upon the following terms in resolution of this dispute:

1. The tenancy shall continue until 1:00 p.m. on September 30, 2016 at which time the tenant shall return vacant possession of the rental unit to the landlord.
2. The tenant shall pay the landlord September 2016 rent of \$700.00 when due on August 31, 2016.

Both parties were informed that any rights and obligations provided under the Act continue to apply. I heard from the parties that the tenant still owes the landlord some rent from previous months and the tenant was of the position she may be entitled to some compensation under the Act. The parties indicated that they will try to resolve those issues among themselves but that if they cannot the parties remain at liberty to file subsequent Applications for Dispute Resolution.

Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement agreement during the hearing and to record the agreement in the form of a decision or order.

I have accepted and recorded the mutual agreement reached by the parties during this hearing and make the terms an Order to be binding upon both parties.

In recognition of the mutual agreement, I provide the landlord with an Order of Possession that is effective at 1:00 p.m. on September 30, 2016.

Conclusion

The parties reached a mutual agreement that I have recorded by way of this decision. In recognition of the mutual agreement I provide the landlord with an Order of Possession effective at 1:00 p.m. on September 30, 2016 to serve and enforce as necessary.

The landlord has been given leave to reapply should rent for previous months remain outstanding and the parties do not resolve that issue between themselves.

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: August 23, 2016

Residential Tenancy Branch