



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes OPR; MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to Section 55(4) of the Act, on October 11, 2016. The Landlord was granted an Order of Possession and a Monetary Order for unpaid rent in the amount of \$1,000.00 for the month of September, 2016.

On October 14, 2016, the Residential Tenancy Branch received an Application for Review from the Tenant. On October 24, 2016, an arbitrator considered the Tenant's Application for Review and granted his Application. The Decision and Orders made on October 11, 2016, were suspended and a new participatory Hearing was granted.

This is the new Hearing. Both parties signed into the Hearing and gave affirmed testimony.

The Tenant testified that he moved out of the rental unit on November 1, 2016. Therefore, the Landlord no longer requires an Order of Possession. The Order of Possession issued October 11, 2016, is therefore cancelled.

The Tenant testified that he served the Landlord with the Notice of Review Hearing "on October 14 or 15", 2016. He testified that he also provided the Landlord with copies of his documentary evidence on the same day. The Landlord stated that he received the Notice of Review Hearing, but did not receive any other documents from the Tenant.

Issue(s) to be Decided

Is the Landlord entitled to a monetary award for unpaid rent?

Background and Evidence

The Tenant acknowledged that he did not pay rent for the month of September, 2016, in the amount of \$1,000.00. The Tenant stated that he believes he is entitled to

compensation from the Landlord for breach of his quiet enjoyment while he was living at the rental unit.

Analysis

The Tenant appeared to be confused with respect to the reason for this Review Hearing. I explained to him that the only issue before me is whether or not the Landlord is entitled to unpaid rent for September, 2016, in the amount of \$1,000.00. I explained to the Tenant that he was at liberty to make his own Application for Dispute Resolution.

The Tenant acknowledged that he did not pay rent for September, 2016. Section 26(1) of the Act provides:

26 (1) 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 a right under this Act to deduct all or a portion of the rent.

[reproduced as written, my emphasis added]

The Tenant did not provide evidence of any right under the Act to deduct any or all of the rent for September, 2016. Therefore, I confirm the Monetary Order issued to the Landlord on October 11, 2016, in the amount of \$1,000.00.

Conclusion

The Order of Possession issued October 11, 2016, is cancelled.

The Monetary Order issued October 11, 2016, is confirmed.

The Tenant is at liberty to make his own Application for compensation if he so desires.

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: December 18, 2016

Residential Tenancy Branch

