



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPR, MNR, MNSD, DRI, CNC, CNR, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on December 30, 2016 for:

1. An Order cancelling notices to end tenancy - Section 46 and 47;
2. An Order in relation to a rent increase - Section 43.

The Landlord applied on December 28, 2016 for:

1. An Order of Possession - Section 55;
2. An Order for unpaid rent or utilities - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to unpaid rent?

Is the Landlord entitled to unpaid utilities?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The following are agreed facts: The tenancy started on October 1, 2016 with rent of \$850.00 due on the first day of each month. Utilities were not included in the rent. The Parties signed another tenancy agreement on November 23, 2016 with rent of \$925.00 payable on the first day of each month with all utilities included in the rent to start January 1, 2017. The Parties agree that no rent was paid for January 2017.

The Parties mutually agree to end the tenancy 1:00 p.m. on January 31, 2017. The Landlord claims \$925.00 as unpaid January 2017 rent.

The Landlord states that any unpaid utilities for October, November and December 2016 will be placed on the Landlord's tax bill at the end of January 2017 if unpaid by the Tenant. The Landlord claims unpaid utilities. The Tenant states that the utilities for that period are the Tenant's responsibility. The Tenant states that no other matter remains under dispute.

Analysis

Section 63 of the Act provides that if the parties settle their dispute during dispute resolution proceedings, the settlement may be recorded in the form of a decision or order. Given the mutual agreement to end the tenancy I find that the dispute over the end of the tenancy has been settled and in order to give effect to this agreement I provide the Landlord with an order of possession in accordance with the terms of the settlement. I dismiss the Tenant's application.

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Based on the agreed facts I find that the Landlord is entitled to unpaid rent of **\$925.00**. As the Landlord has yet to become liable for any unpaid utilities for the period October to December 2016 inclusive I dismiss this claim with leave to reapply. As the Landlord's application has had merit I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,025.00**. Deducting the

security deposit plus zero interest of **\$425.00** leaves **\$600.00** owed to the Landlord from the Tenant.

Conclusion

I grant an order of possession to the Landlord effective 1:00 p.m. on January 31, 2017.

I Order the Landlord to retain the security deposit plus interest of \$425.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$600.00**. If necessary, this order may be filed in the Small Claims Court and 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: January 23, 2017

Residential Tenancy Branch