



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

WITMAR HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

REVIEW HEARING DECISION

Dispute Codes OPR, MNR

Introduction

On July 21, 2017 a non-participatory hearing took place to determine an Application for Direct Request (the "Application") made by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Adjudicator who had conduct of the non-participatory hearing issued the Landlord with an Order of Possession and a Monetary Order for unpaid rent based on an undisputed 10 Day Notice that had been served to the Tenant. The Direct Request Decision and the orders were dated July 21, 2017.

On July 25, 2017, the Tenant applied for a review of the Direct Request Decision on the basis that it was obtained by the Landlord using fraud. On August 4, 2017, the Arbitrator who had conduct of the Tenant's review application determined that there was sufficient evidence to indicate that the Landlord was ending the tenancy for late rent fees and not for unpaid rent. As a result, the Tenant was granted this review hearing and the Decision and orders dated July 21, 2017 were suspended until the outcome of this review hearing.

Preliminary Issues

The Tenant, an agent for the Landlord, and the Landlord's Accountant appeared for the hearing and provided affirmed testimony. The Landlord's agent confirmed receipt of the Review Consideration Decision and notice of this hearing. The Tenant confirmed further documentary evidence she had been served by the Landlord prior to this hearing.

At the onset of the hearing, the Landlord's agent confirmed that the Tenant was not in any rental arrears and that the Tenant had paid all the outstanding car parking charges and the late fees associated with this tenancy. Accordingly, the Landlord withdrew the

10 Day Notice with the agreement of the Tenant. As a result, I find the 10 Day Notice is of no cause or effect.

Section 82(3) of the *Residential Tenancy Act* provides that following a review hearing, the original decision or orders may be confirmed, varied or set aside. As the parties withdrew the 10 Day Notice, I find Direct Request Decision and related orders made on July 21, 2017 are now set aside.

This tenancy will now continue until it is ended pursuant to the Act. However, the Tenant is cautioned that she is to pay all monies owed on time pursuant to the tenancy agreement entered into. After the hearing had concluded, the Landlords remained on the line in the absence of the Tenant to obtain further information about their rights and obligations under the Act.

This Review Hearing 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: September 05, 2017

Residential Tenancy Branch