



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, FF

Introduction

The landlord and the tenant convened this hearing in response to applications.

The landlord's application is seeking orders as follows:

1. For an order of possession'
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent issued on January 24, 2018 (the "Notice").

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Issues to be Decided

Should the Notice be cancelled or is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

Background and Evidence

Based on the testimony of the tenant, I find that the tenant was served with a notice to end tenancy for non-payment of rent on January 24, 2018. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The tenant testified that they stopped paying rent because of their financial circumstances. The tenant stated that the landlords were absent for two years and they did everything.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

- 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.

Although the tenant disputed the Notice, I find the tenant's application has no merit as the tenant admitted they stopped paying rent. The tenant does not have the authority under the Act to withhold rent simply because they feel entitled to do so. I find the tenant had not authority under the Act, to withhold rent. Therefore, I dismiss the tenant's application to cancel the Notice.

I find the Notice issued on January 24, 2018, is valid, and remains in full force and effect.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I find that the landlord has established a total monetary claim of \$10,100.00 comprised of unpaid rent which includes April 2018 rent., and the \$100.00 fee paid by the landlord for this application. The tenant did not pay a security deposit.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant failed to pay. The tenant's application is dismissed. The landlord is granted an order of possession and a monetary order for unpaid rent.

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: April 04, 2018

Residential Tenancy Branch