



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant's Application made February 6, 2018: CNR; OLC; FF

Landlord's Application made February 8, 2018: OPR; MNR; FF

Introduction

This Hearing was scheduled to consider cross-applications. The Tenant seeks to cancel a Notice to End Tenancy for Unpaid Rent issued February 2, 2018; an Order that the Landlord comply with the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Landlord.

The Landlord seeks an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

Both of the parties attended the Hearing which took place by teleconference. The parties gave affirmed testimony. The hearing process was explained and the parties were given an opportunity to ask questions about the process.

It was determined that each party served the other with their respective Notice of Hearing documents and copies of their documentary evidence, by registered mail.

At the outset of the Hearing, the Tenant stated that he moved out of the rental unit on February 28, 2018. Therefore, his application is dismissed as the tenancy is over.

The Landlord acknowledged that the Tenant moved out on February 28, 2018, and that he took back possession of the rental unit. Therefore, the Landlord's request for an Order of Possession is also dismissed.

Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

A copy of the tenancy agreement was provided in evidence. The agreement is between the Tenant and his previous landlord. This tenancy began on September 1, 2016.

Monthly rent was \$1,995.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$1,000.00, which the Landlord JL is holding.

The Landlord JL purchased the rental property on January 31, 2018, and inherited the tenancy from the previous landlord.

The Tenant stated that he withheld rent in the amount of \$495.00 because of repairs that were necessary but had not been done by the previous landlord. The Tenant testified that he had an oral agreement with his previous landlord that he would pay a reduced amount of rent (\$1,500.00) because of the deficiencies and repairs.

The Landlord denied that the rent was reduced. He provided a copy of a letter from the previous landlord, which provides, in part:

September of 2017 when Ken's room mate moved out, he has not been paying the full amounts rent. This was not because of any verbal or written arrangement that he could pay less. I has asked him if he would like to pick out a new roommate, someone he could live with, and I was under the impression he would. When he did not, I reminded him that I still expected the full rent for the house, and that I was not renting a rooming house. After being pressed he would offer up anther \$500 to total \$1500, even when his girlfriend moved in. There was no agreement that this was the new acceptable rent, despite please for a compromise.

Analysis

Section 26 of the Act provides, in part:

"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."

Based on the documentary evidence provided and the lack of a written agreement between the Tenant and his previous landlord, I find that the Tenant has provided insufficient evidence that he had a right under the Act to deduct all or a portion of the rent.

I advised the parties that I find that the Tenant owes the Landlord the amount of \$495.00 for unpaid rent for the month of February, 2018, and that the Landlord is entitled to recover the cost of the \$100.00 filing fee.

The Landlord stated that he has another Application for Dispute Resolution seeking a monetary award for the cost of cleaning the rental unit at the end of the tenancy, which is currently set for Hearing on October 16, 2018 at 1:30 p.m.

The parties came to a settlement agreement with respect to return of a portion of the security deposit and the cost of the cleaning. Therefore, pursuant to the provisions of Section 63 of the Act (Opportunity to settle dispute), **I hereby record their agreement that the Landlord may deduct \$300.00 from the security deposit for the cost of cleaning the rental unit at the end of the tenancy.**

As the parties have come to an agreement with respect to the Landlord's Application against the security deposit, **the October 16th Hearing is cancelled.**

Pursuant to the provisions of Section 72 of the Act, and the parties settlement agreement set out above, I order that the Landlord deduct the outstanding rent, the filing fee and the cost of cleaning the rental unit, from the security deposit. **I ORDER that the Landlord return the balance of the security deposit in the amount of \$105.00 to the Tenant forthwith.**

Conclusion

In support of the settlement agreement reached between the parties, and my order with respect to unpaid rent and recovery of the filing fee, the Tenant is hereby provided with a Monetary Order in the amount of \$105.00, which may be served upon the Landlord and enforced in the Provincial Court (Small Claims Division).

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 17, 2018

Residential Tenancy Branch