



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, ERP, MNDC

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 46;
2. An Order for emergency repairs - Section 32; and
3. A Monetary Order for compensation - Section 67.

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

Issue(s) to be Decided

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Tenant entitled to an order for emergency repairs?

Is the Tenant entitled to the compensation claimed?

Background and Evidence

The following are agreed facts: There is no written tenancy agreement. The tenancy started in August 2016. Rent of \$700.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$350.00 as a security deposit. The Tenant agreed to sell the Landlord a travel trailer for \$3,500.00. The Landlord paid this amount by reducing the Tenants’ rent to zero for the period October 2017 to February 2018 inclusive. On March 1, 2018 the Landlord served the Tenant in person with a 10

day notice for unpaid rent in the amount of \$3,500.00 (the "Notice"). The Tenants disputed this Notice. Prior to this Notice the Landlord served the Tenants with a two month notice to end tenancy for landlord's use. The Tenants did not dispute this notice to end tenancy.

The Landlord states that the Tenants refused to transfer ownership of the travel trailer so the Landlord wants the return of \$3,500.00 and claims this amount as unpaid rent. The Tenant states that her boyfriend has the travel trailer in his name, has been out of town and has not been able to complete the transfer documents but that the trailer should belong to the Landlord.

The Tenant states that there are no longer any emergency repairs.

The Tenant confirms that the claim for compensation is in relation to work done for the Landlord and another person on the other person's property.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Based on the undisputed evidence that rent of \$3,500.00 was not payable for the period October 2017 to February 2018 inclusive in exchange for the Landlord's purchase of the travel trailer I find that the Landlord has not substantiated that the Tenants owe rent for this period. Based on the undisputed evidence that the Notice was based on rent that was not owed for this period, I find that the Notice is not valid and that the Tenants are entitled to its cancellation. The tenancy continues.

As there are no emergency repairs required I dismiss the claim for emergency repairs.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be

dismissed with or without leave to reapply. As the Tenant's claim for compensation is in relation to a matter that it not related to the unpaid rent as set out on the Notice and without having determined the merit of the claim I dismiss the claim for compensation with leave to reapply.

As the Tenants did not dispute the two month notice to end tenancy for landlord's use, the Landlord remains at liberty to seek an order of possession based on this notice.

Conclusion

The Notice is cancelled and of no effect. The tenancy continues.

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: May 23, 2018

Residential Tenancy Branch