



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

On April 23, 2018, the landlord's application for direct request proceeding was granted. The landlord received an order of possession and a monetary order for unpaid rent.

On April 25, 2018, the tenant made an application for review consideration, which was granted on the basis that they have new and relevant evidence. The Arbitrator ordered the parties to participate in a new hearing, and the original decision and orders were suspended. The Arbitrator at the new hearing may confirm, vary, or set aside the original decision.

This new hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order for unpaid rent.

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 to me.

Issues to be Decided

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 parties, I find that the tenant was served with a notice to end tenancy for non-payment of rent on April 6, 2018. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days.

The tenant testified that they paid the rent on April 11, 2018, which was within five days of receiving the notice. The tenant stated that the order of possession and monetary order should be cancelled.

The landlord does not dispute the tenant paid the rent on April 11, 2018. The landlord stated that the tenant is always late paying the rent.

Analysis

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

The tenant paid the outstanding rent within five days after receiving the Notice. I find that notice to end tenancy had no force or effect, pursuant to section 46(4)(a) of the Act. Therefore, the landlord was not entitled to receive the order of possession and monetary order that was issued on April 23, 2018.

Therefore, I dismiss the landlord's application. I find it appropriate to set aside the original decision and orders made on April 23, 2018, the orders have no force or effect.

Conclusion

The landlord's application is dismissed. The original decision and orders made on April 23, 2018, are set aside and have no force or effect.

The tenant paid rent within five days after receiving the notice to end tenancy and the landlord was not entitled to receive the orders made on April 23, 2018.

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: June 21, 2018

Residential Tenancy Branch