



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPL & FFL

The Application for Dispute Resolution filed by the Tenant seeks an order to cancel a 10 day Notice to End Tenancy dated June 5, 2018.

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession pursuant to a 2 month Notice to End Tenancy dated May 10, 2018 and setting the end of tenancy for July 31, 2018.
- b. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the 2 month Notice to End Tenancy was personally served on the Tenant on May 11, 2018. I find that the 10 day Notice to End Tenancy was personally served on the Tenant on June 5, 2018. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was filed by the tenant was sufficiently served on the landlord on June 6, 2018. I find that the Application for Dispute Resolution filed by the landlord was served on the Tenant by mailing, by registered mail to where the tenant resides on July 3, 2018.

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated June 5, 2018?

- b. Whether the landlord is entitled to an Order for Possession?
- c. Whether the landlord is entitled to A Monetary Order and if so how much?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on July 1, 2017 and end on June 30, 2018. The rent was \$850 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$425 at the start of the tenancy.

The landlord served a 2 month Notice to End Tenancy on the Tenant on May 11, 2018.

The tenant(s) failed to pay the rent for the month of June stating he was applying his right under section 51(1) to receive the equivalent of one month rent to the rent for June. The landlord objected on the basis that the tenant could withhold the last month rent only and served a 10 day Notice to End Tenancy.

The Tenant testified he moved out at the end of June 2018. The landlord testified he went to the property of July 5, 2018 and there was belongings still in the rental unit. The landlord also testified he received an abusive phone call from the Tenant later that date stating the landlord had no right to enter the property.

In any event, the landlord testified he regained possession of the rental unit on July 15, 2018.

Tenant's Application:

There is no need to consider the Tenant's application for an order to cancel the 10 day Notice to End Tenancy as the tenant has vacated and that matter is moot. As a result the tenant's application is dismissed.

Landlord's Application - Order of Possession:

There is no need to consider the Landlord's application for an Order of Possession as the Tenant has vacated and the matter is moot. The landlord stated he has regained possession and has no need for an Order of Possession. As a result the landlord's application for an Order of Possession and the cost of the filing fee is dismissed.

There is a great deal of animosity between the parties. The tenant is demanding the return of the security deposit but he has not given the landlord his forwarding address in writing as yet. The landlord submits he has claims against the Tenant. Those claims

would first have to be made in an Application for Dispute Resolution before they can be adjudicated.

This decision is final and binding on the parties.

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: July 26, 2018

Residential Tenancy Branch