



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, OPUM-DR

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlords on January 16, 2019 (the “Application”). The Landlords applied for an Order of Possession based on 10 Day Notices to End Tenancy for Unpaid Rent or Utilities. The Landlords sought unpaid rent and utilities and reimbursement for the filing fee.

The Landlords filed an amendment to the Application seeking unpaid rent and utilities and reimbursement for cleaning (the “Amendment”).

The Landlord and Tenants appeared at the hearing. I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony.

The parties confirmed the correct spelling of Tenant L.C.’s name and I amended the Application to reflect this. This is reflected in the style of cause.

The Landlords had submitted evidence prior to the hearing. The Tenants had not submitted evidence. I addressed service of the hearing package and Landlords’ evidence. The Tenants confirmed they received the hearing package and Landlords’ evidence except for the following:

- Proof of Service from February
- Monetary Order Worksheet from January
- The Amendment
- A bill from the city dated December 31, 2018

The Landlords were not relying on the Monetary Order Worksheet from January and therefore I did not view this as an issue. The Tenants confirmed they were aware of the issues raised in the Amendment and therefore I did not view this as an issue.

The Landlord could not point to evidence showing the Tenants were served with copies of the Proof of Service from February or bill from the city dated December 31, 2018. Given the position of the Tenants that they did not receive these documents, and the lack of evidence

showing these specific documents were served, I was not satisfied of service. I heard the parties on whether the evidence should be admitted or excluded. I excluded these two documents as I found it would be unfair to the Tenants to admit them when they said they did not receive them and I was not satisfied they were served with them.

A written tenancy agreement had been submitted as evidence. The parties did not agree on the written tenancy agreement. However, there was no issue that there is a tenancy agreement between the parties in relation to the rental unit. The parties agreed the tenancy is a month-to-month tenancy. The parties agreed rent is \$1,500.00 per month due on the first day of each month.

During the hearing, I raised the possibility of settlement pursuant to section 63(1) of the *Residential Tenancy Act* (the "Act") which allows an arbitrator to assist the parties to settle the dispute given comments made by the parties at the outset.

I explained the following to the parties. Settlement discussions are voluntary. If they chose not to discuss settlement that was fine, I would hear the matter and make a final and binding decision in the matter. If they chose to discuss settlement and did not come to an agreement that was fine, I would hear the matter and make a final and binding decision in the matter. If they did come to an agreement, I would write out the agreement in my written decision and make any necessary orders. The written decision would become a final and legally binding agreement.

The parties did not have questions about the above when asked. Both parties said they were interested in discussing settlement and a discussion ensued.

Prior to ending the hearing, I confirmed the terms of the settlement agreement with the parties. I told the parties I would issue a conditional Monetary Order and Order of Possession. I confirmed with the parties that all issues had been covered. The parties confirmed they were agreeing to the settlement voluntarily and without pressure.

Settlement Agreement

The Landlords and Tenants agree as follows:

1. The 10 Day Notices to End Tenancy for Unpaid Rent or Utilities dated January 02, 2019 and February 04, 2019 are cancelled.
2. The Landlords and Tenants agree the following monies are outstanding as of the date of the hearing:
 - a. \$6,290.00 in rent;
 - b. \$1,975.00 for a utility bill dated February 28, 2019;
 - c. \$1,680.00 for a utility bill from November of 2018; and

- d. \$421.26 for a cleaning bill from the city.
- 3. The Landlords and Tenants agree the Tenants currently owe the Landlords \$10,366.26 for the items set out above in term #2.
- 4. The tenancy will continue on the condition that the Tenants pay the following to the Landlords:
 - a. \$3,000.00 of the \$10,366.26 owing by March 31, 2019; **AND**
 - b. \$1,000.00 of the remaining \$7,366.26 owing each month starting April of 2019. The \$1,000.00 is in addition to monies ordinarily owing under the tenancy agreement. The Tenants will pay the \$1,000.00 extra each month until the remaining \$7,366.26 is paid. The final payment only needs to be for the final amount outstanding.
- 5. If the Tenants **EITHER**:
 - a. Fail to pay the Landlords \$3,000.00 of the \$10,366.26 owing by March 31, 2019 as set out above; **OR**
 - b. Fail to pay the Landlords \$1,000.00 extra each month starting April of 2019 as set out above;

The conditional Order of Possession will become effective two days after service on the Tenants and the conditional Monetary Order will become effective.

- 6. All rights and obligations of the Landlords and Tenants under the tenancy agreement will continue as long as the tenancy continues.
- 7. The Landlords waive reimbursement for the filing fee.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

The Landlords are granted a **conditional Order of Possession** effective two days after service on the Tenants. If the Tenants do not pay the Landlords in accordance with the settlement agreement set out above, this Order becomes effective and must be served on the Tenants. If the Tenants do not comply with the Order, it may be filed and enforced in the Supreme Court as an order of that Court.

The Landlords are granted a **conditional Monetary Order** in the amount of \$10,366.26. If the Tenants fail to pay the Landlords in accordance with the settlement agreement set out above, this Order becomes effective and must be served on the Tenants. If the Tenants do not comply

with the Order, it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

It was made clear to the parties during the hearing that, if the Tenants fail to pay the Landlords in accordance with the settlement agreement set out above, the Landlords are only entitled to enforce the conditional Monetary Order for the amount outstanding at the time the conditional Monetary Order becomes effective. For example, if the Tenants pay the \$3,000.00 by March 31, 2019 but fail to pay an extra \$1,000.00 in April of 2019, the conditional Monetary Order becomes effective; however, the Landlords can only seek the outstanding \$7,366.26.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: March 11, 2019

Residential Tenancy Branch