



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPL, OPU, MNDCL-S, FFL

The Application for Dispute Resolution filed by the Tenant seeks an order to cancel the 10 day Notice to End Tenancy dated June 19, 2019

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

- a. An Order of Possession for landlord use of the property
- b. An Order of Possession for non payment of utilities
- c. A monetary order in the sum of \$1041.95 for unpaid utilities.
- d. An order to retain the security deposit
- e. An order to recover the cost of the filing fee

The tenant(s) failed to appear at the scheduled start of the hearing which was 1:30 p.m. on August 12, 2019. The landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenant(s) failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The landlord was given a full opportunity to testify, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at the hearing a decision has been reached. All of the evidence was carefully considered.

I find that the two month Notice to End Tenancy was personally served on the Tenant on May 8, 2019. The landlord served a 30 day demand for non payment of utilities on the tenant on May 1, 2019. I find that the 10 day Notice to End Tenancy for non payment of utilities was personally served on the tenant's brother (who is an adult person who resides in the rental unit) Tenant on June 15, 2019.

Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing filed by the landlord was served on the Tenant by mailing, by registered mail to where the Tenant resides on July 19, 2019. I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing filed by the Tenant was sufficiently served on the landlord.

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 16, 2019?
- 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 retain all or a portion of the security deposit/pet deposit?
- e. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began in September 2018. The parties entered into a second written tenancy agreement that provided that the tenancy would start on February 1, 2019 and end on July 31, 2019. The rent is \$1700 per month payable on the first day of each month. The rent did not include utilities. The parties orally agreed the tenant would pay \$150 a month for utilities. The tenant paid a security deposit of \$800 at the start of the tenancy.

The tenant(s) failed to pay the utilities for the months of January 2019, February 2019, March 2019 and May 2019 and the sum of \$641.95 remains outstanding. In addition the tenant failed to pay the utilities for June 2019 and the July 2019 and the sum of \$300 is owed for those months. The total amount owing for utilities is \$941.95.

The tenant vacated the rental unit on July 31, 2019 and the landlord regained possession.

Tenant's Application:

The tenant failed to attend the hearing. The landlord used the approved government form. The tenant failed to present sufficient evidence to grant an order cancelling the 10 day Notice to End Tenancy. As a result I dismissed the Tenant's application without leave to re-apply.

Determination and Orders:

The landlord stated she did not require an Order of Possession. The tenant vacated the rental unit and the landlord regained possession I determined that it was not necessary to issue an Order of Possession.

Landlord's Application - Order of Possession:

For the reasons set out above I determined that the landlord was entitled to an Order of Possession. However, the landlord stated she did not require the Order and I determined it was not necessary to grant the Order of Possession.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the utilities for the month(s) of months of January 2019, February 2019, March 2019 and May 2019 and the sum of \$641.95 remains outstanding. In addition the tenant failed to pay the utilities for June 2019 and the July 2019 and the sum of \$300 is owed for those months. The total amount owing for utilities is \$941.95.

I granted the landlord a monetary order in the sum of \$941.95 plus the sum of \$100 in respect of the filing fee for a total of \$1041.95.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$800. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$241.95.

Conclusion:

I dismissed the Tenant's application without leave to re-apply. The landlord stated she did not require an Order of Possession. I ordered that the landlord shall retain the security deposit of \$800. In addition I ordered that the Tenant shall pay to the landlord the sum of \$241.95.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: August 12, 2019

Residential Tenancy Branch