



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MDSD & FF

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

- a. An order to cancel the one month Notice to End Tenancy dated July 3, 2019.
- b. A monetary order
- c. A repair order
- d. An order for a reduction of rent
- e. An order that the tenant recover the cost of the filing fee

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

- a. An Order for Possession for non-payment of rent and an Order of Possession for cause
- b. A monetary order in the sum of \$2800 for unpaid rent
- c. An order to retain the security deposit
- d. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. 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 one month Notice to End Tenancy was personally served on the Tenant on July 3, 2019. I find that the 10 day Notice to End Tenancy was personally served on the Tenant on August 2, 2019.

The tenant testified he served the Application for Dispute Resolution and Notice of Dispute Resolution Hearing on the landlord by mailing by Express Post to where the landlord carries on business. The landlord testified the tenant failed to serve them. I determined it is no longer necessary to consider this as the Tenant has vacated the rental unit and the landlord has regained possession.

I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing seeking an Order of Possession for cause filed by the landlord was served on the Tenant by mailing by registered mail.

I determined that the Amendment to the Application for Dispute Resolution filed by the landlord was has not been sufficiently served on the Tenant. The landlord attempted to serve it by registered mail. However, the tenant had vacated the rental unit by that time.

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the one month Notice to End Tenancy dated July 3, 2019?
- b. Whether the tenant is entitled to a monetary order and if so how much?
- c. Whether the tenant is entitled to a repair order?
- d. Whether the tenant is entitled to a reduction of rent?
- e. Whether the tenant is entitled to recover the cost of the filing fee?
- f. Whether the landlord is entitled to an Order for Possession?
- g. Whether the landlord is entitled to A Monetary Order and if so how much?
- h. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- i. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began approximately 13 years ago. The present rent was \$1485. The tenant paid a security deposit of \$575 at the start of the tenancy.

The tenant vacated the rental unit on August 16, 2019.

Grounds to End the Tenancy:

The Notice to End Tenancy identifies the following grounds:

- Tenant is repeatedly late paying rent

Tenant's Application:

The tenant has vacated the rental unit. It is no longer necessary to consider the tenant's application to cancel the one month Notice to End Tenancy. I dismissed the Tenant's application to cancel the one month notice to end tenancy, for a repair order and to recover the cost of the filing fee without leave to re-apply.

I dismissed the tenant's claim for a monetary order and for a reduction of rent with leave to re-apply as the tenant failed to sufficiently identify his claims.

Landlord's Application - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order of Possession as the tenant has vacated the rental unit and the landlord has regained possession. I dismissed the claim to recover the cost of the filing fee.

Analysis - Monetary Order and Cost of Filing fee:

I dismissed the landlord's claim for a monetary order and to retain the security deposit as the landlord failed to serve the tenant with the Amendment which makes this claim. The tenant had vacated the rental unit at the time the Amendment was filed and service attempted by registered mail

Conclusion:

I dismissed the Tenant's claim to cancel the one month Notice to End Tenancy, for a repair order and to recover the cost of the filing fee without liberty to re-apply. I dismissed the tenant's claim for a monetary order and a reduction of past rent with liberty to re-apply.

I dismissed the landlord's application for an Order of Possession and to recover the cost of the filing fee without leave to re-apply. I dismissed the landlord's claim for a monetary order and to retain the security deposit with leave to re-apply.

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: September 17, 2019

Residential Tenancy Branch