



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DOLE ENTERPRISES
LTD d [tenant name suppressed to protect
privacy] **DECISION**

Dispute Codes CNC, FFT
 OPC, MNDL-S, FFL

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the Residential Tenancy Act (the “Act”). The matter was set for a conference call.

The Tenant’s Application for Dispute Resolution was made on December 29, 2019. The Tenant applied to cancel a One-Month Notice to End Tenancy for Cause (the “Notice”) dated 27 Dec 2019, and for the return of their filing fee. The Landlord’s Application for Dispute Resolution was made on January 23, 2020. The Landlord applied to enforce a One-Month Notice to End Tenancy for Cause (the “Notice”) issued on 27 Dec 2019, for compensation for damage caused by the Tenant, their pets or guests to the unit, site or property, permission to retain the security deposit and to recover their filing fee.

Both the Landlord, the Tenant’s sister and the Tenant’s Advocate (the “Tenant”) attended the hearing and were each affirmed to be truthful in their testimony. The Tenant and the Landlord were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the Notice issued on December 27, be cancelled pursuant to section 47 of the *Act*?
- If not, Is the Landlords entitled to an order of possession pursuant to section 47 of the *Act*?
- Is the Tenant entitled to recover the cost of the filing fee?

- Is the Landlord entitled to a monetary order for damage?
- Is the Landlord entitled to retain the security deposit?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

As per the tenancy agreement submitted in to evidence this tenancy began on October 15, 2017, as a one year and two-week fixed term that continued as a month to month at the end of the initial fixed term. Rent in the amount of \$920.00 was to be paid by the first day of each month and Tenant paid the Landlord a \$400.00 security deposit.

Both parties agreed that the Tenant recently passed away and that the Landlord had taken back possession of the rental unit as of February 29, 2020. The Landlord testified that she no longer required an order of possession for the rental unit and the Tenant testified that they no longer wished to cancel the notice.

During the hearing, both parties expressed a desire to enter into a mutual agreement regarding the Landlord's claim for damages to the front door of the rental unit.

Section 63 of the *Act* allows for the parties to consider a settlement to their dispute during the hearing, and that any settlement agreement reached during the hearing may be recorded in the form of a decision and an order. In accordance with this, an opportunity for a settlement discussion was presented, and the parties came to an agreement on a settlement that would resolve their dispute.

During the hearing, the parties agreed to the following settlement:

1. The parties agreed that the Tenants estate had paid \$2,800.00 towards an estimated \$4,830.00 repair bill, for damaged to the door to the rental unit.
2. The Tenant agreed that they will the remainder of the repair costs, directly to the repair company, upon completion of the repair work.
3. The Landlord agreed to have the repair company bill the Tenants estate directly for the remaining cost pf the door repair.
4. The Tenant agreed to contact the Landlord, upon receipt of the repair bill, to confirm that the repair work had been completed to the Landlord satisfaction.
5. Both parties agreed that the Tenant is only responsible to the cost associated with the repair of the damage cause by the tenant, and not for any upgrades or improvements.

6. The Landlord was provided with the forwarding address for the Tenant's estate during these proceedings.
7. Both parties acknowledged that the security deposit had not been address in this settlement and that it would be address in a subsequent hearing to be applied for by the Landlord.
8. The Landlord acknowledged receipt of the forwarding address for this tenancy during these proceedings; confirmed that she has 15 days from the date of this hearing to either return the security deposit to the Tenant's estate or file a claim against the security deposit.

The above terms of the settlement agreement were reviewed with all parties at the end of the hearing and all parties confirmed that they were entering into the settlement agreement on a voluntary basis. They also confirmed understanding of the terms of the settlement agreement as full and final settlement of this matter.

Analysis

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. I decline to award the recovery of the filing fee to either party in this case.

Conclusion

The parties are ordered to comply with the terms of the settlement agreement as outlined in this decision.

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: March 5, 2020

Residential Tenancy Branch