



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-DR-PP, OPRM-DR, FFL**

Introduction

This hearing was convened in response to applications by the landlord and the tenants.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To be allowed more time to make an application to dispute a notice to end tenancy; and
2. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

I have considered only the parties written or documentary evidence to which they pointed or directed me in the hearing, pursuant to Rule 7.4 of the Residential Tenancy Branch Rules of Procedure (the "Rules".)

At the outset of the hearing the parties agreed to the following:

- The parties agreed that the tenancy will legally end on November 30, 2020;
- The parties agreed to meet at the rental unit on November 30, 2020, at 12:00 pm (noon) and complete the move out condition inspection;
- The landlord is entitled to an order of possession effective on the above noted date; and

- The tenant agrees they will not interfere with the landlord's right to show the premise to potential renters. The landlord will give the tenant 24 hours notice by email.

This settlement agreement was reached in accordance with section 63 of the *Residential Tenancy Act*.

I find that the landlord is entitled to an order of possession, pursuant to section 55, 62 of the Act, effective **November 30, 2020 at 12:00 PM (Noon)**. **A copy of this order must be served on the tenants.** This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenant.

Issue to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The tenancy began on July 1, 2019. Rent in the amount of \$1,800.00 was payable on the first of each month. A security deposit of \$900.00 and a pet damage deposit of \$900.00 was paid by the tenants.

The landlord testified that the tenant has only paid \$900.00 towards the monthly rent of \$1,800.00 for July, August, September, October, and November 2020. The landlord seeks to recover unpaid rent for the said months in the total amount of \$4,500.00.

The tenant testified that they do not owe the landlord any rent. The tenant stated that they notified the landlord that they could only afford to pay the amount of \$900.00, which the landlord responded okay.

Tenant stated they sent the landlord two emails. However, the landlord stated they only received one. Filed in evidence is a screen print of the emails sent to the landlord and a word document that has copied and pasted emails.

Filed in the landlord's evidence is an email thread to the one email the landlord received and responded too.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I do not accept that the landlord agreed that they would reduce the rent from \$1,800.00 to \$900.00. This does not have the “ring of truth”.

I accept the landlord evidence over the tenant that they only received the one email from the tenant dated May 26, 2020 at 3:30pm, that the tenant would not be entering into a second fixed term, and responded to the tenant on May 27, 2020 9:04 am, saying that was okay. The landlord provided a copy of the entire email thread for me to considered.

In this case the tenant refers to a second email sent to the landlord on May 26, 2020, at 5:26 pm; however, the screen print, the tenant has provided as proof of sending shows that the tenant sent this email to themselves, as they are both the sender and recipient of the email. Further, this clearly was not sent to the landlord at this time and even if it was, that was not the email the landlord was responding to on May 27, 2020.

I find the tenant is not being truthful as you cannot copy and paste emails into a word document to create a desired outcome, such as in this case the tenant copies both of their emails and put the landlord response on the end. However, the landlord's response was only to the one email of May 26, 2020 at 3:30 pm. Not to any other email, I find the tenant's action is misleading and creating false documents is very serious.

While I accept the tenants were having difficulties paying the rent and \$900.00 was all they could pay at the time; however, this does not release the tenants from their obligation under their signed tenancy agreement that the rent is owed. I find the tenants breached section 26 of the Act, when they failed to pay the full rent from July 2020 up to and including November 2020. I find the landlord is entitled to recover unpaid rent in the amount of **\$4,500.00**.

I find that the landlord has established a total monetary claim of **\$4,600.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$900.00** and pet damage deposit of **\$900.00.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$2,800.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The parties agreed to mutually end the tenancy on November 30, 2020. The landlord is granted an order of possession and a monetary order for unpaid rent.

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: November 10, 2020

Residential Tenancy Branch