



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, DRI, CNR, MNDC, FF

Introduction

This conference call hearing was convened in response to two applications for dispute resolution as follows:

By the landlord: as an application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; to keep the security deposit; and to recover the filing fee associated with his application.

By the tenant: as an application to cancel a 10 Day Notice to End Tenancy for unpaid rent; to dispute an additional rent increase; for a Monetary Order for money owed or compensation for damage or loss under the Act, Regulation or tenancy agreement; and to recover the filing fee associated with this application.

The tenant participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the landlord by way of registered mail sent on February 3rd, 2012, and provided a Canada Post tracking number. The landlord did not participate and the hearing proceeded in the landlord's absence.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Should the rent increase be allowed?

Is the tenant entitled to a Monetary Order, and if so for what amount?

Is the tenant entitled to recover the filing fee?

Background and Evidence

The rental unit consists of an upper suite in a detached garage on a residential property. Pursuant to a written agreement, the fixed term tenancy started on December 1, 2011 and is to end June 1, 2012. The rent is \$800.00 per month and the tenant paid a security deposit of \$400.00.

The tenant testified that on December 13, 2011, the landlord threatened him that her ex-husband was a biker, and that her brother-in-law was a police officer. He stated that throughout the tenancy he was often interrupted by the landlord with unannounced visits concerned maintenance issues, or threatened by her downstairs tenant concerning a gate.

The tenant stated that on February 13, 2012, the landlord came to his unit with an individual who produced a badge, identified himself as a police officer, and used foul, abusive language to threaten him that he'd better pay the rent by February 15. The tenant stated that the landlord then lodged a complaint to the police alleging that he was an associated gang member, and that shortly thereafter four police officers came to his unit. He said that they persuaded him, although not required to do so, that it would be in his best interest to sign a Mutual Agreement to End Tenancy effective February 19, 2012, and that failure to cooperate may result in the landlord's use of a bailiff. The tenant said that he wanted no trouble with the police, and that out of fear he signed the agreement and moved out on that date.

The tenant stated that the landlord did not return his security deposit, and that he is now living out of his suitcase with his personal belongings in storage.

The tenant is seeking monetary compensation for moving expenses, loss of quiet enjoyment, and the return of his security deposit.

Analysis

Since the landlord did not appear, the landlord's application is dismissed without leave to reapply. And since the tenant moved out of the unit, it is not necessary that I address the notice to end tenancy or the rent increase. Accordingly I dismiss these aspects of the tenant's application.

Concerning the security deposit; in the absence of any evidence from the landlord I find that the tenant is entitled to the return of the security deposit.

The tenant stated that the landlord used intimidating tactics, threatened him that her ex-husband is a biker, and that her brother-in-law was a police officer. He submitted that the police interference over this tenancy has left him shaken, and wrote that his attempts to locate the landlord to pay his rent on time have cost him time from work. On a balance of probabilities I find that the tenant established that the landlord has interfered with the tenant's right to quiet enjoyment by these unannounced, intimidating visits. Accordingly, I allow the tenant a one-time rent reduction of \$250.00.

The tenant provided no receipts or material evidence concerning the costs for relocating; accordingly I dismiss this aspect of the tenant's claim.

Conclusion

The landlord's application is dismissed.

The tenant established a claim of \$650.00. Since he was partially successful, I find that the tenant is entitled to partial recovery of the filing fee and i award him \$25.00.

Pursuant to Section 67 of the Act, I grant the landlord a monetary order for the sum of \$675.00.

This Order may be registered in the Small Claims Court and enforced as an order of that Court.

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: February 21, 2012.

Residential Tenancy Branch