



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Satkul Developments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This was the hearing of an application by the landlord for an order for possession and a monetary order. The hearing was conducted by conference call. The named party appeared on behalf of the landlord and the tenant called in and participated in the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order for possession?
Is the landlord entitled to a monetary order and if so, in what amount?

Background and Evidence

The rental unit is located in Surry. The tenancy began in May, 2012. There is a written tenancy agreement. The corporate applicant in this proceeding is not named as landlord in the tenancy agreement. The applicant's representative said at the hearing that the person named in the tenancy agreement is his father and the corporate applicant is the owner of the rental property. The monthly rent is \$1,550.00, payable on the first of each month. The tenants paid a security deposit of \$750.00 in Jun, 2012. The tenants did not pay the full rent for December, 2012; \$1,000.00 is outstanding and they have not paid rent for January and February. . The applicant served the tenant with a 10 day Notice to End Tenancy for unpaid rent on January 23, 2013. The Notice alleged that the tenant failed to pay rent in the amount of \$2,550.00 that was due on January 1, 2013 and required the tenant to move out by February 2, 2013. The tenant did not apply to dispute the Notice.

At the hearing the tenant testified that last evening, February 27th, she met with her landlord, Mr. S.S. M. The tenant testified that he paid the landlord the sum of \$1,920.00 in cash. The landlord accepted the payment and told her that he did not want her to move. The tenant said that it was agreed between them that if she paid the rent for March in the amount of \$1,550.00 by March 5th and paid the outstanding arrears by March 15th she could continue to reside in the rental unit. The tenant said that she paid the \$1,920.00 pursuant to the landlord's agreement and she would not have paid the \$1,920.00 knowing that she would be evicted the next day. The tenant testified that the

landlord told her that the application scheduled for the following day would be withdrawn.

The landlord's representative at the hearing acknowledged that the tenant paid \$1,920.00 in cash, but he denied that there was an agreement as alleged by the tenant. He said that he had a document prepared by the tenant but it was not signed by his father and he denied that his father made such an agreement. He said that his father was engaged in other business and was unavailable to attend the hearing and provide evidence as to what took place between him and the tenant. The landlord's representative said that the money just paid by the tenant was rental arrears; the current rent was not paid and there was no reason for the landlord to have agreed to allow the tenancy to continue. He said that he wanted an order for possession and a monetary order as claimed.

Analysis and conclusion

I accept the tenant's testimony concerning her discussion with the landlord and I find that an agreement was made whereby the landlord agreed to withdraw this application based upon the payment of \$1,920.00 and based on the tenant's agreement to pay the rent and arrears as she testified. I make this finding because, although as the landlord correctly pointed out, the amount the tenant paid was on account of arrears and not current rent, it is very unlikely that the tenant would have made the payment on the eve of her eviction had there not been an agreement that she would be allowed to continue her tenancy and be given some time to make up the arrears.

Further, I am not satisfied on the evidence that the corporate landlord named in this application is in fact the proper party to be named as landlord, or that the landlord's representative has been appointed to act as agent for the landlord on this application.

The landlord was not present to confirm or deny the tenant's testimony and for the reasons given, I accept the tenant's version of events and find that it was agreed that this application would be withdrawn. The application is therefore dismissed with leave to reapply.

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 28, 2013

