



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SMSG Mountain View Development Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, LRE, MTO, RPO, OPR, MND, MNR, MNSD, MNDC, FF

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlord. Both files were heard together.

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicants have put on the applications. For claims to be combined on an application they must related.

Not all the claims on these applications are sufficiently related to the main issues to be dealt with together.

I therefore will deal with whether or not to uphold or cancel the Notice to End Tenancy, and whether or not there is any rent outstanding, and if so in what amount; and I dismiss the remaining claims with liberty to re-apply.

Background and Evidence

This tenancy began on October 1, 2010 the monthly rent of \$675.00 and the security deposit of \$337.50 was collected.

The present rent for this rental unit is \$690.00 per month.

The tenant has fallen behind on the rent in both landlord and the tenant agree that at this time there is \$300.00 rent outstanding for September 2014, \$690.00 outstanding for October 2014, \$690.00 outstanding for November 2014, for a total of \$1680.00.

The landlord served the tenant with the Notice to End Tenancy on October 1, 2014 by personal service.

The landlord is asking for an Order of Possession based on that notice, and a monetary order for the outstanding rent.

The tenant is requesting that the Notice to End Tenancy be canceled and that he be allowed to make payments to catch up on the rent.

Landlord is opposed to any payment plan.

Analysis

Both the landlord and the tenant have agreed that there is a total of \$1680.00 and rent outstanding this time, and therefore I will allow the landlord's request for a monetary order for that outstanding rent and recovery of his \$50.00 filing the.

I am not willing however to issue an Order of Possession, because the Notice to End Tenancy that the landlord served was not in the proper form and did not have all the required information. The landlord has taken it upon himself to make his own Notice to End Tenancy, and although it is similar to the required form as stated above it is incomplete.

Section 52 of the Residential Tenancy Act states:

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

The landlord's Notice to End Tenancy is not in the required form, does not state the effective date of the notice, and has not been signed by the landlord. It's my finding therefore that the landlord's Notice to End Tenancy is not a valid notice.

Conclusion

As stated above the Notice to End Tenancy served by the landlord is invalid and I therefore cancel that notice and this tenancy continues.

I have issued it a monetary order in favor of the landlord in the amount of \$1730.00.

As stated above all other claims or requests on the two applications are 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: November 25, 2014

Residential Tenancy Branch

