



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNR, OPT, RR, OPR

Introduction

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

The landlord's application is seeking orders as follows:

1. For an order of possession for unpaid rent;
2. For a monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a notice to end tenancy;
2. For a monetary order to recover the cost of emergency repairs;
3. To obtain an order of possession of the rental unit; and
4. To allow a tenant to reduce rent for repairs.

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.

Preliminary matters

At the outset of the hearing the tenant confirmed that they have vacated the rental premise on January 15, 2015. The tenant stated that they no longer seek to cancel the notice to end tenancy. The tenant confirmed that they did not pay any money to complete emergency repairs.

As a result, I find there are no outstanding issues in the tenant's application to consider at today's hearing. As the issue to allow a tenant to reduce rent for repairs is not required to be heard as there is no future rent payable for me to consider.

Issues to be Decided

Is the landlord entitled to an order of possession?

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

Is the landlord entitled to keep all or part of the security deposit; and

Is the landlord entitled to recover the cost of filing the application.

Background and Evidence

The tenancy began on September 1, 2011. Rent in the amount of \$650.00 was payable on the first of each month. The tenant paid a security deposit of \$325.00.

The landlord testified that the tenant did not tell them that they vacated the rental unit.

The landlord seeks an immediate order of possession to secure the property.

The landlord testified the tenant did not pay rent for December 2014 or January 2015.

The landlord seeks a monetary order in the amount of \$1,300.00.

The tenant testified that they did not pay any rent for December 2014 and should not be required to pay the full amount of rent for January 2015, as they vacated the rental premise on January 15, 2015.

Analysis

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

As the tenant is no longer residing in the rental premises, I find the landlord is entitled to an **immediate order of possession**.

Under section 26 of the Act, a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

In this case, the tenant has admitted that rent was not paid when due under the terms of the tenancy agreement. I find the tenant breached the Act, when they failed to pay rent for December 2014, and January 2015.

Although the tenant left the premises on January 15, 2015, I find there is no provision under the Act that entitles the tenant to pay a prorated rent, when they were served with a notice to end tenancy for unpaid rent

Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$1,300.00**.

I find that the landlord has established a total monetary claim of **\$1,350.00** comprised of the unpaid rent and the \$50.00 fee paid for this application.

I order that the landlord retain the security deposit and interest of **\$325.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,025.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession. The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: January 23, 2015

Residential Tenancy Branch

