



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPT, FF

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the 10 day Notice to End Tenancy dated January 4, 2016.
- b. A Tenant's Order for Possession.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on January 4, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the tenant was personally served on the landlord on January 14, 2016. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated January 4, 2016?
- b. Whether the tenant is entitled to a Tenant's Order for Possession?

Background and Evidence

The tenancy began approximately 3 ½ years ago. The present rent is \$800 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$400 at the start of the tenancy. The 10 day Notice to End Tenancy alleges the tenant owed rent for December 2015 and January 2016. The Application for Dispute

Resolution filed by the Tenant alleges the landlord denied him entry to his rental unit and threw his stuff into the garbage.

The tenant stated he has no interest in re-instating the tenancy and moving back into the rental unit. He is interested in making a claim for compensation. The landlord testified the tenant caused significant damage to the rental unit and she is interested in making a claim for damages against the tenant.

Analysis:

The tenant sought an order to cancel a 10 day Notice to End Tenancy and a Tenant's Order for Possession in these proceedings. However, he stated he is no longer interested in moving back to the rental unit.

I determined that it would not be appropriate to proceed with the hearing of these matters at this time as neither party wants the tenancy reinstated. As a result I dismissed the tenant's application. I have not made any determinations on the merits of the issues raised by the tenant.

The tenant stated he intends to file another Application for Dispute Resolution seeking compensation. The landlord testified that she intends to bring a claim for the damage caused by the tenants. The parties must file an Application for Dispute Resolution identifying their respective claims before an arbitrator can adjudicate those claims.

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 15, 2016

Residential Tenancy Branch

