

Decision

Dispute Codes: OPR, MNR, FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony.

Issue(s) to be Decided

- (1) Is the Landlord entitled to an Order of Possession based on a Notice to End Tenancy for Unpaid Rent?
- (2) Is the Landlord entitled to a monetary order in the amount of \$2,400.00 for unpaid rent for the months of April and May, 2010, and for loss of rent for the month of June, 2010?

Background and Evidence

The Landlord testified that the Tenant moved out of the rental unit on June 1, 2010, and that the Tenant did not pay any of the arrears for April and May, 2010. Furthermore, the Landlord is seeking loss of rent for the month of June, 2010.

The Landlord testified that he posted the Notice to End Tenancy on the Tenant's door on April 23, 2010.

The Tenant agreed that she received the Notice, and testified that she paid the unpaid rent for April and May in cash, but the Landlord refused to issue her a receipt. The

Tenant testified that she did not file an application to cancel the Notice to End Tenancy because she was going to move anyway.

The Landlord testified that the Tenant did not pay any rent for April or May and stated that the Tenant wrote to him asking if she could delay paying her monthly rent.

The Tenant stated that she didn't receive any copies of the Landlord's evidence with respect to his application. The Landlord testified that he provided the Tenant with the Notice to End Tenancy on April 23, 2010 and didn't understand why he should have to provide it again. The Landlord stated that the Tenant wrote the note asking for time to pay, and so he didn't think he had to provide her with another copy.

The Landlord testified that he provided copies of the Notice to End Tenancy and the Tenant's note to the Residential Tenancy Branch when he filed his Application for Dispute Resolution on May 4, 2010.

Analysis

The tenancy has ended and therefore the Landlord's application for an Order of Possession is dismissed.

There are no copies of the Landlord's evidence on the Residential Tenancy Branch file. The Landlord did not provide any documentary evidence in support of his application to the Tenant.

The Landlord was provided a hearing package when he picked up the Notice of Hearing Package for service upon the Tenant. The Notice of Dispute Resolution Hearing sheet clearly states that evidence must be provided to the Residential Tenancy Branch and to the Respondent (in this case, the Tenant) prior to the date of the Hearing. The Notice of Hearing package attached the deadlines for providing the evidence.

The purpose of providing the Residential Tenancy Branch with the Notice to End Tenancy is so that the Dispute Resolution Officer can confirm that the Notice to End Tenancy is a valid Notice. The purpose of providing the Residential Tenancy Branch with copies of other evidence (i.e. the tenancy agreement, log of rent payments, or the Tenant's note) is so that the Landlord can prove his claim. The burden of proof lies with the Applicant/Landlord. The Tenant disputed that she owed any rent to the Landlord.

The purpose of providing the Respondent/Tenant with copies of the Applicant/Landlord's evidence, is so that the Tenant is aware of what documents the Landlord is relying upon, and so the Tenant can prepare for the Hearing.

The Landlord did not serve the Tenant or provide the Residential Tenancy Branch with copies of the documentary evidence he intended to rely on at the Hearing and therefore, the Landlord's application for a monetary order for unpaid rent is dismissed.

The Landlord has not been successful in his application and is not entitled to recover the cost of the filing fee from the Tenant.

The Landlord did not apply against any security deposit paid, and therefore any security deposit being held in trust for the Tenant remains available on application by either party, to be administered in accordance with the provisions of Section 38 of the Residential Tenancy Act.

Conclusion

The Landlord's application is dismissed.

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.

June 18, 2010

Date of Decision