



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPB, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

Midway through the hearing as the landlord was testifying, the tenants repeatedly attempted to interrupt him and then angrily announced that they were hanging up. The hearing continued for several minutes after they disconnected and the tenants did not telephone in again for the duration of the hearing.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The undisputed facts are as follows. The tenancy began in 2010 and in a decision dated July 20, 2011, the landlord was granted an order of possession. The landlord did not enforce the order of possession and continued to accept rent from the tenants. In a tenancy agreement dated November 1, 2011, the landlord and the tenant P.B. entered into a fixed term tenancy agreement which provided that the tenant would pay \$915.00 per month in rent and would vacate the unit on November 30, 2011.

The parties agreed that \$780.00 of the rent was not paid in November and that no rent whatsoever was paid in December. The tenants claimed that the landlord did not collect rent because he was angry at having been asked to perform repairs.

The landlord seeks an order of possession based on the tenancy having ended pursuant to the November 1 agreement as well as rental arrears and loss of income for December and January.

Analysis

Although in the past the landlord has had a tenancy agreement with both tenants, he currently has a tenancy agreement solely with P.B. I find that because the tenant A.B. has not entered into a tenancy agreement with the landlord, he is an occupant rather than a tenant and the landlord cannot act against him. I therefore dismiss the claim as against A.B.

I find that the tenancy ended on November 30, 2011 pursuant to the tenancy agreement signed by the landlord and P.B. on November 1. I find that the tenants have overhired the unit and that the landlord has not reinstated the tenancy and I find that the landlord is entitled to an order of possession. I enclose herewith a formal order which may be enforced in the Supreme Court. I note that although the tenant A.B. is not named in the order of possession, his right to occupy the unit has ended with the end of P.B.'s tenancy and the order is effective to evict P.B. and all who occupy the unit with his permission.

I find that the landlord is entitled to recover the \$780.00 in rental arrears for the month of November and loss of \$915.00 in income for the month of December. I further find that the landlord is unlikely to re-rent the unit before January 15, 2012 and that the landlord is therefore entitled to recover one half month's lost income for January.

I award the landlord \$2,202.50 which represents rental arrears, loss of income as described in the preceding paragraph and the \$50.00 filing fee paid to bring this application. As the security deposit was awarded in the decision of July 20, 2011, I have not applied the security deposit to this award. If the landlord is holding a security deposit, he is free to retain it in partial satisfaction of the award, pursuant to section 38(3) of the Act. The claim for lost income for the second half of January is dismissed with leave to reapply in the event the tenant does not comply with the order of possession and the landlord loses further income.

Conclusion

The landlord is granted an order of possession and a monetary order for \$2,202.50.

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 04, 2012

Residential Tenancy Branch