



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPR

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally 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

This is a request for an Order of Possession based on a Notice to End Tenancy for non-payment of rent, a request for a monetary order for \$5,000.00, and a request for recovery of the \$50.00 filing fee. The applicant is also requesting an order to keep the full security deposit and pet deposit towards the claim.

Background and Evidence

The applicant testified that:

- He originally applied for an Order of Possession by the tenant subsequently vacated the rental unit and therefore he no longer requires that order.

- Rent is however still outstanding for the month of January 2012, and since there is a lease to the end of April 2012 he is also requesting lost rental revenue to the end of the lease.
- He is also requesting \$108.64 to re-key the locks because the tenant refused to return the keys when he refused to return her post-dated cheques.

The respondent testified that:

- She did not pay January 2012 rent because she did not have the money.
- The landlord gave her a 10 day Notice to End Tenancy and she vacated the rental unit on January 24, 2012.
- She does not believe she should have to pay any further rent since she was evicted.
- She did not return the key because the landlord refused to return her post-dated cheques.

Analysis

It is my decision that I will allow the claim for the outstanding rent for January 2012, and lost rental revenue for February 2012 because I find it unlikely that the unit will be rented before the end of February 2012.

I dismiss with leave to reapply the claim for lost rental revenue for the months of March 2012 in April 2012 however because these claims are premature as the unit may re-rent for those months.

The tenant feel she should not have to pay any further rent however she is in a fixed term tenancy that runs to April 30, 2012 and therefore she is liable for any loss rental revenue if the tenancy ends due to a breach such as failure to pay the rent.

I will not allow the landlords claim for rekeying the locks however because both the landlord and the tenant were at fault somewhat since the landlord was refusing to return the tenants post-dated cheques.

I will allow recovery of the filing fee.

Conclusion

I have allowed \$3850.00 of the landlords claim and I therefore order that the landlord may retain the full security/pet deposit totalling \$1900.00 and I have issued a monetary order in the amount of \$1950.00.

The claim for rekeying the locks is dismissed without leave to reapply and as stated above the claim for lost rental revenue for the months of March 2012 and April 2012 is 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: February 07, 2012.

Residential Tenancy Branch