



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the landlord – OPR, MNR, FF

For the tenant – MT, CNR, MNDC, OLC, RPP, AAT, RR, FF

Introduction

This hearing was convened by way of conference call in repose to both parties' applications for Dispute Resolution. The landlord has applied for an Order of Possession for unpaid rent and utilities; for a Monetary Order for unpaid rent or utilities; and to recover the filing fee from the tenant for the cost of this application. The tenant has applied for more time to cancel a Notice to End Tenancy, to cancel a 10 Day Notice to End Tenancy; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for an Order for the landlord to comply with the Act, regulations or tenancy agreement; for an Order for the landlord to return the tenants personal property; for an Order for the landlord to allow access to the unit for the tenant or the tenants guests; to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided; and to recover the filing fee from the landlord for the cost of this application.

The tenant and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross exam each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

At the outset of the hearing the landlord advised that the tenant is no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession.

RTB Rules of Procedure 2.3 states that “if in the course of a dispute resolution proceeding, the dispute resolution officer determines that it is appropriate to do so, the Dispute Resolution officer may dismiss unrelated disputes contained in a single application with or without leave to reapply.” In this regard I find the tenant has applied for a Monetary Order for money owed or compensation for damage or loss; for an Order for the landlord to comply with the Act, regulations or tenancy agreement; for an Order for the landlord to return the tenants personal property; for an Order for the landlord to allow access to the unit for the tenant or the tenants guests; to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided. The tenant has also applied for more time to cancel a Notice to End Tenancy and applied to cancel the 10 Day Notice to End Tenancy. However, I find the tenant has moved from the rental unit on April 14, 2012. Therefore I find with the exception of the tenants claim for the return of her personal property no other sections of the tenants claim now apply and are therefore dismissed without leave to reapply.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order to recover unpaid rent and utilities?
- Is the tenant entitled to the return of her personal belongings?

Background and Evidence

Both parties agree that this tenancy started on December 01, 2011. This was a fixed term tenancy which was due to end on February 29, 2012. The tenancy continued after this date and became a month to month tenancy. The tenancy ended on April 14, 2012.

Rent for this unit was \$895.00 per month and was due on the first day of each month in advance.

The landlord testifies that the tenant failed to pay utilities for February, 2012. The landlord testifies that he went to the tenants unit on March 16, 2012 to collect the outstanding utilities and the tenant informed the landlord that she was unable to pay the bill. The landlord testifies that the tenant also informed the landlord that she would move out on April 01, 2012. The landlord states he asked the tenant to put her Notice to end the tenancy in writing. The landlord has provided a copy of this Notice letter from the tenant which is undated but states the tenant will move out on April 01, 2012.

The landlord testifies that he visited the tenant on March 31, 2012 to see when she was moving out and was informed by the tenant that she was not going to move as the tenant said she did not have any money or a place to go. The landlord states he told the tenant that in that case she would owe rent for April and still owed utilities for February and March.

The landlord testifies that he sought advice from the Residential Tenancy Office on April 02, 2012 and later that day the landlord served the tenant with a 10 Day Notice to End Tenancy for unpaid rent and utilities by posting the Notice to the tenants door. This Notice informed the tenant that she had five days to pay the outstanding rent of \$895.00 and outstanding utilities of \$297.00 or dispute the Notice within five days or the tenancy would end on April 15, 2012.

The landlord testifies that the tenant failed to pay the rent or utilities and moved from the rental unit on or about April 15, 2012. The landlord testifies that the tenant abandoned some of her personal belongings at the rental unit so the landlord has removed these belongs and has placed them in storage at another of the landlords properties.

The landlord seeks to recover unpaid rent for April of \$895.00 and seeks to recover a loss of income for May, 2012 of \$895.00. The landlord testifies he was unable to re-rent

the unit for May as he was unsure when the tenant was moving out and then had to remove the tenants abandoned belongings.

The landlord also seeks to recover unpaid utilities for February of \$168.85, for March of \$128.16, and for April of \$125.71 to a total sum of \$422.72. The landlord has provided copies of the utilities bills to the tenant and has provided the bills in evidence.

The tenant does not dispute that she owes rent and utilities to the landlord. The tenant testifies that she did move from the rental unit on April 14, 2012 and disputes the landlords claim for loss of income for May, 2012. The tenant states the landlord did not show up for a scheduled meeting for the tenant to retrieve her belongings and the landlord changed the locks on the unit.

The landlord and tenant came to an agreement for the tenant to collect her belongings from the landlord on or before May 18, 2012. The tenant agrees to telephone the landlord and arrange a mutually convenient time and day to collect her belongings. If the tenant fails to collect her belongings by May 18, 2012 the tenant agrees the landlord is at liberty to dispose of them in accordance with the Residential Tenancy Regulations # 24, 25, 26, 27 concerning the abandonment of personal property.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties.

Section 26 of the Act states: *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.*

The tenant does not dispute that she owes rent for April and utilities as declared by the landlord. The tenant does dispute the landlords claim for a loss of income for May, 2012. I have considered the landlords claim and find the landlord is entitled to recover unpaid rent for April to the sum of **\$895.00** and unpaid utilities of **\$422.72**. However as this hearing has been held at the beginning of May there is still an opportunity for the landlord to rent the unit out during May. I therefore find the landlord is entitled to recover half a month's rent for May, 2012 to the sum of **\$447.50**. If the unit has not been rented during May the landlord is at liberty to reapply to recover the balance of May's rent.

As the landlord has been partially successful with his application for a Monetary Order for unpaid rent and utilities, I find the landlord is entitled to recover the filing fee of **\$50.00** from the tenant pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord for the following amount pursuant to s. 67 of the *Act*.

Unpaid rent for April	\$895.00
Unpaid utilities	\$422.72
Loss of income for May	\$447.50
Filing fee	\$50.00
Total amount due to the landlord	\$1,815.22

Conclusion

Both Parties have reached an agreement during the hearing concerning the return of the tenants personal belongs. This agreement has been recorded by the Dispute Resolution Officer pursuant to section 62 of the *Act* as documented above.

The reminder of the tenants application is dismissed without leave to reapply as the tenant has vacated the rental unit.

I HEREBY FIND in partial favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,815.22**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: May 07, 2012.

Residential Tenancy Branch

