



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and authorization to retain the security deposit. The tenant did not appear at the hearing. The landlords testified that the hearing documents were personally served upon the tenant on May 19, 2012 in front of the rental property. I was satisfied the tenant was sufficiently served with the hearing documents and I proceeded to hear from the landlords.

Issue(s) to be Decided

1. Are the landlords entitled to an Order of Possession for unpaid rent?
2. Are the landlords entitled to a Monetary Order for unpaid rent and/or loss of rent?
3. Are the landlords entitled to retain the security deposit?

Background and Evidence

The landlords submitted the following undisputed evidence: The tenancy commenced on November 1, 2010 and the tenant paid a \$825.00 security deposit. The tenant is required to pay rent of \$1,650.00 on the 1st day of every month. At the end of the one-year fixed term the tenancy converted to a month-to-month tenancy.

The landlords submitted that the tenant failed to pay rent for April 2012 and on April 30, 2012 the landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice). The Notice indicates \$1,650.00 was unpaid as of April 1, 2012 and the effective date was left blank.

The landlords testified that the tenant did not pay the rental arrears after she was served with the 10 Day Notice. Nor did the tenant pay any rent for May 2012 or June 2012. I heard that the tenant is currently staying in a shelter but that her husband and children remain in the rental unit.

In filing this application the landlords sought recovery of unpaid/loss of rent for the months of April, May and June 2012 in the amount of \$4,950.00.

The landlords provided a copy of the tenancy agreement and 10 Day Notice as documentary evidence for this proceeding.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I accept that the tenant was served with the Notice as declared by the landlords.

Although the effective date on the Notice was left blank I find this omission does not invalidate the Notice. Rather, the effective date is automatically changed to read May 10, 2012 pursuant to section 53 of the Act.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on May 10, 2012 and the landlords are entitled to regain possession of the rental unit. **Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant. It is my order that the landlords may serve the Order of Possession by personally service upon the tenant, or by posting the Order on the door of the rental unit. The Order of Possession requires the tenant, and all other occupants, to vacate the rental unit.**

The Act requires the tenant to pay rent when due, in accordance with the terms of their tenancy agreement. Upon consideration of all of the evidence before me, I find the landlords entitled to recover unpaid rent for April and May 2012. I further find the landlords entitled to recover loss of rent from the tenant for the month of June 2012 as she did not return vacant possession of the unit to the landlords. Therefore, I grant the landlords' request to recover unpaid/loss of rent in the amount of \$4,950.00.

I authorize the landlords to retain the tenant's security deposit in partial satisfaction of the rent owed to the landlords. I also award the landlords the filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

April 2012 rent	\$ 1,650.00
May 2012 rent	1,650.00
June 2012 loss of rent	1,650.00
Filing fee	50.00
Less: security deposit	<u>(825.00)</u>
Monetary Order	\$ 4,175.00

The landlords must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlords have been provided an Order of Possession effective two (2) days after service. It is my order that the Order of Possession be served upon the tenant personally, or by posting it on the door of the rental unit.

The landlords have been authorized to retain the security deposit and have been provided a Monetary Order for the balance of \$4,175.00 to serve upon the tenant.

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: June 06, 2012.

Residential Tenancy Branch