



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This conference call hearing was convened in response to two applications for dispute resolution as follows:

By the landlord: as an application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent, and money owed or compensation for damage or loss under the Act, Regulation or tenancy agreement; and to recover the filing fee associated with his application.

By the tenant: as an application for cancellation of a 10 Day Notice to End Tenancy; a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; to make repairs to the unit; and to allow a tenant to reduce rent for repairs, services or facilities agreed upon but not provided.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to recover the filing fee?

Should the notice to end tenancy be set aside, and should the tenancy continue?

Is the tenant entitled to a Monetary Order, and if so for what amount?

Is the tenant entitled to reduced rent?

Should the landlord be ordered to make repairs?

Background and Evidence

The rental unit consists of a basement suite in a single detached home. Pursuant to a written agreement, the month to month tenancy started on January 28, 2012. The rent is \$600.00 per month and the tenant paid a security deposit of \$300.00.

The landlord testified that the tenant did not pay rent for the months of April and May 2012. He stated that the tenant gave him excuses over personal setbacks, but that to date these arrears have not been paid.

In his documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy served on the tenant in person on April 8, 2012.

The landlord also stated that the tenant cancelled the rent cheque for April, which cost \$7.00 in administrative bank fee. The landlord also claims \$193.00 because the tenant fails to put the garbage out, which leaves foul odours behind and the property is messy.

The tenant argues that he did not provide personal excuses; he states that he withheld the rent because the landlord failed to provide internet connection as specified in the rental agreement. The tenant disputes the landlord's version of the agreement, and states that he provided the Residential Tenancy Branch with a copy of the agreement that indicates that internet was included in the rent. That version was not before me at the time of this hearing.

Concerning the claim for not disposing of the garbage; the tenant states that it is an outright lie.

Analysis

Section 26(1) of the *Act* specifies in part that a tenant must pay the rent when it is due under the tenancy agreement whether or not the landlord complies with the *Act*. On the parties' testimony the rent was not paid and the landlord had grounds to issue the notice to end tenancy. The notice is valid and on that basis the landlord is entitled to an order of possession. Since the parties are at odds concerning the accurate version of the tenancy agreement, and since I have determined that this tenancy has ended, I dismiss the aspect of the tenant's claim concerning a rent reduction or repairs.

Turning to the landlord's claim for unpaid rent; I accept that the tenant did not pay rent for April and May 2012, and I find that the landlord is entitled to recover the loss of rental income for these two months, including the bank fee.

Concerning the claim of \$193.00; the landlord did not provide evidence to substantiate this claim, such as photographs or receipts to justify the amount of the claim. In the absence of more substantive evidence I dismiss this aspect of the landlord's application.

Conclusion

The tenant's application is dismissed.

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant. This Order may be registered in the Small Claims Court and enforced as an order of that Court.

The landlord established a claim of \$1207.00. I authorize the landlord to retain the tenant's \$300.00 security and deposit for a balance owing of \$907.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the *Act*, I grant the landlord a Monetary Order totalling \$957.00.

This Order may be registered in the Small Claims Court and enforced 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 01, 2012.

Residential Tenancy Branch