



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 hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation – Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on November 1, 2011 for a fixed term expiring on April 30, 2012 1, 2011. Rent in the amount of \$725.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$362.50 and a pet deposit of \$200.00. The Tenant failed to pay full rent for the month of April 2012 and on April 2, 2012 the Landlord served the Tenant with a notice to end tenancy for non-payment of rent (the “Notice”) by posting the. The Tenant paid the April arrears and part of the May 2012 rent and the Landlord issued the Tenant with a receipt for “use and occupancy only”. The Tenant agreed to

pay the remaining rental amount of \$425.00 by May 24, 2012 in addition to the \$20.00 late fee and \$10.00 parking fee. The Landlord states that it is the intention of the Landlord to reinstate the tenancy based on this promise to pay by the Tenant. The Landlord requests a monetary order for \$455.00 and asks for an Order of Possession for May 24, 2012 in the event the Tenant does not pay the outstanding rental arrears. The Tenant has not filed an application for dispute resolution and although the Tenant does not object to the Landlord obtaining a monetary order, the Tenant is concerned that should the Landlord obtain an Order of Possession for unpaid May 2012 rent that the Landlord not be able to use the Order of Possession should June 2012 rent be paid late.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the parties agreed evidence I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not filed an application to dispute the notice and has not paid the full amount of outstanding rent. Given these facts and the Landlord's intention to reinstate the tenancy on the basis of the Tenant's promise to pay outstanding rental arrears by May 24, 2012, I find that the Landlord is entitled to an Order of Possession effective May 24, 2012. I direct the Landlord not to use this Order of Possession in relation to anything other than the promise to pay on May 24, 2012. The Landlord is at liberty to make an application seeking an Order of Possession in relation to future unpaid rent. I further find that the Landlord has established a monetary claim for **\$455.00** in unpaid rent. As the Landlord specifically did not include an amount for recovery of the filing fee in the oral request for a monetary amount, I decline to make such an award.

Conclusion

I grant an Order of Possession to the Landlord effective May 24, 2012.

I grant the Landlord an order under Section 67 of the Act for **\$455.00**. If necessary, this order may be filed 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 10, 2012.

Residential Tenancy Branch