



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, MNR, CNR, OLC, ERP, RP, FF*

Introduction,

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied to cancel the notice to end tenancy, for an order directing the landlord to comply with the *Act* and to carry out repairs and for a monetary order for compensation. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

During the hearing, the tenant stated that the landlord had carried out the repairs and accordingly the tenant withdrew the portion of her application regarding repairs.

Issues to be decided

Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside? Is the landlord entitled to a monetary order for unpaid rent and the filing fee? Is the tenant entitled to an order directing the landlord to comply with the *Act*?

Background and Evidence

The tenancy started in March 2011. The rent is \$850.00 per month due on the first of each month.

The tenant failed to pay rent for June and on June 02, 2012, the landlord served the tenant with a ten day notice to end tenancy for unpaid rent. The tenant applied to dispute the notice in a timely manner but as of the date of the hearing had not paid rent for June.

The tenant stated that there have been incidents that involved criminal activity inside the building and the manager did not act upon her complaints. The manager stated that the tenant complained about noise disturbances which were addressed immediately. The manager also stated that there is no history of any complaints made by the tenant regarding the alleged criminal activity. The tenant is claiming compensation in the amount of \$2,500.00 for loss of quiet enjoyment. The tenant did not file any documentary evidence to support her claim.

During the hearing the tenant stated that she had plans to move out on June 30, 2012.

Analysis

Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent or dispute the notice by making application for dispute resolution. If the tenant does not pay rent, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date.

The tenant received the notice to end tenancy for unpaid rent, on June 02, 2012 and did not pay rent within five days of receiving the notice to end tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2), I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord has established a claim of \$850.00 for unpaid rent and \$50.00 for the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$900.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Since the tenancy is ending, the tenant's application for an order directing the landlord to comply with the *Act* is moot and accordingly dismissed. For lack of adequate evidence, the tenant's claim for compensation is also dismissed.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. I also grant the landlord a monetary order in the amount of **\$900.00**. The tenant's application is dismissed in its entirety.

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 27, 2012.

Residential Tenancy Branch