



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession and a Monetary Order for unpaid rent and loss of rent; and, retention of the security deposit. The landlord served the hearing packages upon each tenant via registered mail sent to the rental unit on June 15, 2012. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Procedural Matters

In filing this application, the landlord had requested the amount of the security deposit be added to her monetary claim rather than offset the rental arrears. I confirmed with the parties that a security deposit is currently held in trust. The landlord clarified that she was seeking to have the security deposit remain in trust, to be administered in accordance with the Act after the tenants vacated. I amended the application accordingly.

One of the named tenants (TR) was in attendance at the commencement of the hearing. The second named tenant (AH) did not appear until 20 minutes after the hearing commenced and as I was rendering my decision verbally. The second tenant to appear was provided a summary of the information and findings I had made and provided an opportunity to respond.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent or loss of rent?

Background and Evidence

I was provided the following undisputed information by the parties:

- On November 30, 2011 tenant AH and a former tenant entered into a written tenancy agreement with the landlord.
- On May 10, 2012 the former tenant's interest in the tenancy agreement was assigned to TR with consent of all parties.
- The tenancy agreement provides that the tenants are required to pay rent of \$1,380.00 on the 1st day of every month.
- A security deposit of \$690.00 is currently held in trust.
- On June 1, 2012 the landlord received only \$670.00 of the rent due for June 2012.
- On June 3, 2012 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) indicating \$690.00 was outstanding as of June 1, 2012 and an effective vacancy date of June 20, 2012.
- The landlord received \$450.00 and \$150.00 towards the rental arrears on June 19, 2012 and June 22, 2012.
- The landlord received \$670.00 on July 1, 2012 and the tenants continue to occupy the rental unit.

The landlord was agreeable to permitting the tenants to occupy the rental unit until July 31, 2012 and obtaining an Order of Possession with an effective date of July 31, 2012.

All parties were in agreement that the actual amount of rent outstanding as of June 1, 2012 was \$710.00 and that landlord is entitled to a balance of \$820.00 for unpaid rent and loss of rent up to and including the month of July 2012.

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.

Since the tenants did not pay the outstanding rent or dispute the Notice within five days of receiving the Notice I find the tenancy legally ended on June 20, 2012 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective July 31, 2012 as requested by the landlord.

Based upon the undisputed evidence before me, I find the landlord entitled to recover unpaid rent and loss of rent in the amount of \$820.00 from the tenants. I also award the landlord the \$50.00 filing fee paid for this application. Accordingly, the landlord is provided a Monetary Order in the amount of \$870.00 to serve upon the tenants and enforce as necessary.

The security deposit shall remain in trust, to be administered in accordance with the Act.

Conclusion

The landlord has been provided an Order of Possession with an effective at 1:00 p.m. on July 31, 2012 to serve upon the tenants. The landlord has been provided a Monetary Order in the amount of \$870.00 to serve upon the tenants and enforce as necessary. The security deposit remains in trust, to be administered in accordance with the Act.

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: July 04, 2012.

Residential Tenancy Branch