



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF, MNR, MNSD, OPR

Introduction

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlords' application is a request for an Order of Possession based on a Notice to End Tenancy for non-payment of rent, a request for a monetary order for the outstanding rent, a request for recovery of the \$50.00 filing fee, and a request to retain the full security deposit towards this claim.

The tenant's application is a request to cancel the Notice to End Tenancy that was given for non-payment of rent, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

Both parties agreed that this tenancy began on March 1, 2012 with a monthly rent of \$1350.00.

The tenant admits to having received a 10 day Notice to End Tenancy dated August 2, 2012.

The landlord testified that:

- The tenant failed to pay the August 2012 rent, and therefore on August 2, 2012 they served a 10 day Notice to End Tenancy on the tenant's son.
- The tenant has failed to comply with that notice, and failed to pay any further rent, and in fact when asked to pay the rent the tenant told her to fuck off and told her to get out of there or he would bash her head in. When this happened she called the police and filed a police report, and at that time the police told her that he was known to them and he is a serial tenant.
- The tenant also told her that it would take her six months to get him out of there and he would not pay another dime in rent.
- She is therefore requesting an Order of Possession for as soon as possible and a monetary order for the outstanding rent for the months of August 2012, and September 2012.

The tenant testified that:

- He did agree to rent this rental unit for March 1, 2012 at a rent of \$1350.00 per month.
- He moved out of the rental unit however on June 7, 2012 after getting a death threat from the landlord, which was witnessed by four other people.
- His co-tenant Billy stayed in the rental unit and paid the rent for the month of June 2012, and July 2012.
- Since he no longer lives in the rental unit, he does not believe he should be responsible for any further rent, and does not believe an Order of Possession should be issued since Billy was not served with notice of this hearing.

Analysis

It is my finding that the landlord has shown that the rent for this rental unit has not been paid for the months of August 2012, and September 2012.

It is also my finding that even though the respondent moved out of the rental unit, he is still jointly liable for the rent for this unit with his co-tenant, since possession was not returned to the landlord.

The respondent claims he had to move out of the rental unit because of the death threat from the landlord for which he claims he has numerous witnesses. However the respondent has presented no witness testimony to today's hearing, nor has he provided any witness statements to support the claims that the landlord made a death threat against him. Therefore it is my decision that the respondent has not met the burden of

proving that the landlord ever made a death threat against him or that he had reasonable grounds to end the tenancy without the required Notice to End Tenancy.

Further even if he had had grounds to end the tenancy without the required Notice to End Tenancy, he would have had to return the vacant possession to the landlord however in this case he did not, and his co-tenant continued living in the rental unit.

Therefore it is my decision that I will not set the Notice to End Tenancy aside, I allow the landlords request for an Order of Possession, and the request for the outstanding rent totalling \$2700.00.

I also order recovery of the landlords filing fee

Conclusion

Tenant's application

The tenant's application is dismissed without leave to reapply.

Landlord's application

I have issued an Order of Possession that is enforceable two days after service on the tenant.

I have allowed a monetary claim of \$2750.00 I therefore order that the landlord may retain the full security deposit of \$675.00, and have issued a monetary order in the amount of \$2075.00.

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: September 06, 2012.

Residential Tenancy Branch