



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MND, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, cost of repairs and the filing fee.

The notice of hearing was served on the tenant in person by the landlord. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent, cost of repairs and the filing fee?

Background and Evidence

The tenancy started on April 15, 2012. The current monthly rent is \$600.00 due in advance on the first of each month. The tenant failed to pay rent on August 01, 2012. On August 22, 2012, the landlord gave the tenant a handwritten note informing them that the tenancy would end effective September 30, 2012, if rent was not received by September 01, 2012. The tenant continues to occupy the unit and at the time of the hearing owed rent for August, September and October 2012.

On September 01, 2012, the tenants got into a fight and the male tenant was arrested by the police. The landlord stated that considerable damage was done to the rental unit and has filed photographs into evidence. The photographs indicate that the tenant made several holes in the walls and broke a couple of doors. The landlord has applied for the cost of repair and has estimated the monetary amount required to repair the damage. The landlord testified that the tenants will not allow her to access the unit and therefore she is not sure of the extent of the damage.

The landlord also testified that she is fearful of the tenant due to his violent outbursts and several visits from the police.

Analysis

Section 52 of the *Residential Tenancy Act* states that in order to be effective, a notice to end a tenancy must be in writing and when given by a landlord to a tenant, must be in the approved form.

In this case the landlord served the tenants with a hand written note informing them that the tenancy would be ending shortly for nonpayment of rent.

Since the notice was not in the approved form, I find that the notice was not valid and therefore, I set it aside. The tenancy will continue.

Since the tenancy has not ended and the landlord has not had the opportunity to assess the full extent of the damage done to the rental unit, I dismiss the landlord's claim for damages with leave to reapply.

The landlord must bear the cost of filing this application.

Conclusion

The notice to end tenancy is set aside. The tenancy will continue. The landlord's application for damages is dismissed with leave to reapply.

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: October 19, 2012.

Residential Tenancy Branch