



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPR

Introduction

This hearing was convened in response to applications by the tenant and the landlord.

The tenant's application is seeking an order as follows:

1. Cancel a notice to end tenancy for cause issued on August 26, 2012.

The landlords' application is seeking orders as follows:

1. An order of possession;
2. For a monetary order for damages to the property; and
3. To recover the cost of filing the application from the tenant.

Tenant's application

This matter was set for hearing by telephone conference call at 11:30 A.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Respondent. Therefore, as the Applicant did not attend the hearing by 11:40 A.M, and the Respondent appeared and was ready to proceed, I dismiss the claim without leave to reapply.

Landlords' application

Although served with the Application for Dispute Resolution and Notice of Hearing by personal service on September 11, 2012, which was witnessed, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for damages to the property?

Is the landlord entitled to recover the cost of filing the application from the tenant?

Background and Evidence

The landlord testified that the tenant was served with a notice to end tenancy for cause (the “notice”) on August 26, 2012, by personal service, which was witnessed. The notice informed the tenant that he had ten days to dispute the notice.

In this case, the tenant filed an application to dispute the notice, however, the tenant filed his application on September 17, 2012, which is not within the required timelines under the Act. The tenant also failed to attend at today’s hearing.

The landlord testified on August 23, 2012, the tenant purposely kicked the glass in the front entrance door to the building, this was captured on video surveillance and the police attended. The landlord stated it cost \$219.12 to have the door repaired and are requesting compensation.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find the tenant failed to dispute the notice within ten days after receiving the notice as required by Section 47(4) of the Act and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

The tenant deliberately damaged the landlord’s property by smashing the glass door to the building’s entrance by kicking, and the tenants actions were recorded on a video surveillance.

Under the Residential Tenancy Policy Guideline #1, the tenant is required to pay for repairs where damages are caused, either deliberately or as a result of neglect. I find the tenant has violated the Act and the landlord suffered a loss and is entitled to be compensated for repairing the entrance door to the building in the amount of **\$219.12**.

I find that the landlord has established a total monetary claim of **\$269.12** comprised of the above amount and the \$50.00 fee paid by the landlord for this application.

I order the landlord to retain the amount of \$269.12 from the tenant’s security deposit in full satisfaction of the claim.

Conclusion

The tenant's application to cancel a notice to end tenancy issued on August 26, 2012, is dismissed.

The landlord is granted an order of possession.

The landlord is granted a monetary order in the above amount. The landlord is authorized to retain that amount from the tenant's security deposit in full satisfaction of the claim.

The landlord is at liberty to apply for damages to the rental unit.

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 11, 2012.

Residential Tenancy Branch