



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, OPR, MND, MNDC, MNSD, MNR

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

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

All testimony was taken under affirmation.

Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application. For claims to be combined on an application they must related.

Not all the claims on this application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with the request for an order of possession, the request for an order for outstanding rent, and the request for recovery of the filing fee. I dismiss the remaining claims with liberty to re-apply.

Background and Evidence

The applicant testified that;

- Rent for this unit is \$1200.00 per month.
- The tenant failed to pay the rent for the month of November 2012 and therefore on November 2, 2012, a 10 day notice to end tenancy was personally served to the tenant.
- To date the tenant has failed to comply with that notice.

- Rent for the month of November 2012, was eventually paid in two installments, \$600.00 on November 9, 2012 and \$600.00 on November 14, 2012.
- The rent for November 2012 was accepted for use and occupancy only.
- The tenant has paid no rent for the month of December 2012 and therefore the full \$1200.00 is outstanding.

The applicants are therefore requesting an order of possession for as soon as possible, and a monetary order for the outstanding December 2012 rent, and the filing fee.

The respondent testified that:

- Due to some financial difficulties he did not have the rent for November 1, 2012.
- The rent for November 2012 was paid as stated by the landlord and the landlord did issue receipts for use and occupancy only.
- The December 2012 rent has not been paid, however it's available for the landlord right away.

Analysis

When the tenant receives a 10 day notice to end tenancy for nonpayment of rent, the tenant has five days in which to pay the rent and void the notice, and if the tenant fails to do so then the tenancy ends on the 10th day

In this case the tenant did not pay the outstanding rent within the five day grace period and although the full outstanding amount was eventually paid, it was accepted for use and occupancy only and therefore does not reinstate the tenancy.

The landlord therefore does have the right to an order of possession.

Further the tenant has admitted that the full rent for December 2012, in the amount of \$1200.00, is still outstanding and therefore I also allow the landlord's claim for the outstanding December 2012 rent.

I also order recovery of the filing fee.

The landlord stated that she no longer wishes to use the security deposit towards today's claim, she will hold onto it until the end of the tenancy

Conclusion

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

I have issued a monetary order in the amount of \$1250.00.

As stated previously the landlord's claim 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: December 19, 2012.

Residential Tenancy Branch