



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, MNSD, MNDC, OPR, FE, CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order based on four Notices to End Tenancy for Unpaid Rent all dated December 3, 2012.

The hearing was also convened to deal with an application by the tenant seeking an order cancelling the Ten Day Notices to End Tenancy for Unpaid Rent.

The landlord was in attendance. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, as confirmed by the Canada Post tracking number, nobody for the tenant appeared.

As neither tenant appeared to present their evidence, the tenant's application was dismissed without leave to reapply.

Issue(s) to be Decided

The remaining issues to be determined based on the testimony and the evidence are:

Is the landlord entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent?

Is the landlord entitled to monetary compensation for rental arrears owed?

Background and Evidence

The landlord's claim is for \$9,625.00 accrued arrears for rent owed. Submitted into evidence were copies of 4 different 10-Day Notices to End Tenancy all dated December 3, 2012 and each showing the effective date of December 16, 2012. Three of these Notices indicated that the amount of the arrears owed as of December 3, 2012 was \$2,200.00 and one indicated that the arrears were \$825.00. The landlord explained that, on December 3, 2012, she issued 4 separate Notices all at once, one for each month for which the rent was unpaid, including September, October, November and

December 2012. The landlord stated that she was led to believe that the amounts shown on the Notices would be amalgamated.

Also submitted into evidence was a copy of the tenant's account ledger, showing rent owed of \$7,425.60 as of December 1, 2012 and proof of service.

The landlord testified that tenancy began on February 1, 2012, at which time the tenant paid a security deposit of \$1,100.00 and a pet damage deposit of \$200.00. The landlord testified that the rent was \$2,200.00 per month and the tenant fell into arrears for \$825.00 in September 2012 and failed to pay \$2,200.00 rent owed for the months of October, November and December 2012. The landlord testified that this was the reason that the tenant was issued with 4 Ten Day Notices to End Tenancy for Unpaid Rent on December 3, 2012. The landlord testified that the tenant also failed to pay the rent owed for January 2013, but did make 2 partial payments of \$827.00 on December 31, 2012 and \$1,500.00 on January 3, 2013 towards the debt.

The tenant's application, filed on December 6, 2012 acknowledged that, as of that date, the tenant accepted that arrears for rent were outstanding for 3 months.

The landlord testified that the tenant did not pay all of the arrears and has not vacated the unit. The landlord has requested an Order of Possession and a monetary order for rent owed.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with Notices to End Tenancy for Unpaid Rent in person. I find that, although the amount shown on the Landlord's Notices was \$2,200.00 or \$825.00, it is clear that the tenant was aware that he owed three months rent as of December 6, 2012, which would be \$6,600.00. I find that on January 1, 2013 the tenant owed an additional \$2,200.00. I find that the tenant made payments towards the rental arrears totaling \$2,327.00, leaving a balance of \$6,473.00 as being owed from the tenant's perspective.

I find that the tenant has not paid the outstanding rent. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$6,573.00 comprised of \$6,473.00 accrued rental arrears and the \$100.00 fee paid by the landlord for this application. I order that the landlord retain the tenant's security and pet damage deposits of \$1,300.00 in partial satisfaction of the claim leaving a balance still due in the amount of \$5,273.00.

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the Landlord an order under section 67 for \$5,273.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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

The landlord requested 2 fact sheets, one with information about how to enforce a monetary order and one with information about how to enforce an Order of Possession. This information can be obtained by either party from the Residential Tenancy Branch office and is also available to either party on line at the website addresses shown below:

Enforcing a Monetary Order - RTB108

<http://www.rto.gov.bc.ca/documents/Fact%20Sheets/RTB-108.pdf>

Enforcing an Order of Possession – RTB 103

<http://www.rto.gov.bc.ca/documents/Fact%20Sheets/RTB-103.pdf>

Conclusion

The tenant's application is dismissed. The landlord is successful in the cross application and is granted an Order of Possession and a monetary order for rental arrears.

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: January 10, 2013.

Residential Tenancy Branch

