



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application for dispute resolution (the “Application”) by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for compensation - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

At the onset of the Hearing, the Tenant stated that she is the only Tenant of the basement unit and that the other Tenant (“DC”) named in this application lives in the upper unit. The Landlord provided a copy of the tenancy agreement with DC that indicates this tenant rents the upper floor. The Landlord states that he served both Tenants with one Notice as DC used to live in the lower floor. The Tenant confirmed that she has paid her rent to the Landlord for the lower floor. Given the tenancy agreement and evidence of the Tenant and considering the Landlord’s Application in relation to the lower floor, I find that DC is not a party to the tenancy agreement for the basement unit and I therefore dismiss this application in relation to DC.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began at the end of August 2012. Rent of \$650.00 is payable monthly on the first day of each month. At the outset of the tenancy, the Landlord collected \$162.50 as a security deposit. The Landlord states that the Tenant only paid rent on one or two occasions and that the Tenant owes \$2,400.00 in arrears. The Landlord did not file any accounting of rents collected for this hearing and was unable to provide the months for which rent was not paid. The Tenant states that she only owes \$2,200.00 in rent and will be moving out of the unit on May 25, 2013. The Tenant has not filed an Application for Dispute Resolution but states that rent was not paid for a number of reasons including deficiencies in the unit.

Analysis

Section 26 of the Act provides that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the undisputed evidence that rental arrears are owed, I find that the notice to end tenancy for unpaid rent to be valid in relation to the Tenant and that the Landlord is entitled to an Order of Possession. Given that the Landlord was unable to provide evidence in relation to the amounts of rent owing, and considering the Tenant's evidence of unpaid rent, I find that the Landlord has substantiated an entitlement to **\$2,200.00** in unpaid rent.

The Landlord is also entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$2,250.00**. Setting the security deposit of **\$162.50** plus zero interest off the entitlement leaves **\$2,087.50** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord effective on or before 1:00 p.m. on May 25, 2013.

I order that the Landlord retain the **deposit** and interest of \$162.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$2,087.50**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: May 22, 2013

Residential Tenancy Branch

