



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDC, MNR, MNSD, FF

Introduction

This hearing was convened in response to an 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 unpaid rent – Section 67;
3. A Monetary Order for compensation – Section 67;
4. An order to retain all or part of the security deposit – Section 38;
5. An Order to recover the filing fee – Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by personal service on April 28, 2013 in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Notice to End Tenancy for Cause valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amount claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy began in September 2012. Rent of \$750.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$375.00. The Tenant owes \$350.00 for unpaid rent in February 2012 and failed to pay April 2013 rent. On April 14, 2013, the Landlord personally served the Tenant with a 1 Month Notice to End Tenancy for Cause (the "Notice"). The Notice has an effective date of May 15, 2013. The Tenant has not filed an application to dispute the Notice and has not moved out of the unit.

Analysis

Section 47 of the Act provides that a notice to end tenancy for cause must end the tenancy effective on a date that is

- (a) not earlier than one month after the date the notice is received, and
- (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 53 of the Act provides that where a landlord gives notice to end a tenancy effective on an incorrect date, the notice is deemed to be changed to the earliest date that complies with the Act. As the effective date on the Notice does not comply with Section 47, the effective date is automatically adjusted to May 31, 2013.

Section 47 of the Act further provides that upon receipt of a Notice to end Tenancy for Cause, the tenant may, within ten days of receiving the notice, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the Notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the unit by that date. Based on the Landlord's evidence I find that the Tenant was served with the Notice and I find the Notice to be valid. The Tenant has not filed an application to dispute the notice and must vacate the unit by May 31, 2013. Given these facts, I find that the Landlord is entitled to an **Order of Possession effective 1:00 p.m. May 31, 2013**. Further based on the Landlord's evidence I find that the Landlord has

substantiated an entitlement to **\$1,100.00** in unpaid rent. The Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,150.00**. Setting the security deposit of **\$375.00** plus zero interest off the entitlement leaves **\$775.00** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord effective 1:00 p.m. May 31, 2013.

I order that the Landlord retain the **deposit** and interest of \$375.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$775.00**. 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 23, 2013

Residential Tenancy Branch