



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC MNR MNSD FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 47 and 55 as the tenant is repeatedly late paying rent;;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The tenant did not attend. The tenant landlord gave sworn testimony that he served personally both the Notice to end Tenancy dated April 29, 2013 to be effective May 29, 2013 and the Application for Dispute Resolution. The effective date on the Notice is automatically corrected to May 31, 2013 pursuant to section 53 of the Residential Tenancy Act as a one month Notice to End Tenancy for cause must give a full month's notice and according to section 47(2) (b) end the tenancy on the day before the day in the month that rent is payable under the tenancy agreement. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated April 29, 2013 for the causes of repeated late payment of rent and significantly affecting the quiet enjoyment of other occupants or the landlord. Has the landlord proved on the balance of probabilities that the tenancy should be ended and that he is entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

Background and Evidence:

The tenant did not attend although served with the Application/Notice of Hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the

premises in October 2010, a security deposit of \$350 was paid and rent is currently \$700 a month. It is undisputed that the tenant owes \$700 rent for May 2013 and \$700 for June 2013, although the landlord in the Application claimed only rent for May. The landlord said that the tenant had difficulties especially when the male tenant vacated and she was repeatedly late in paying her rent. He said that her behaviour was also a severe problem in the building and the police had had to be called several times due to complaints of the neighbours about the disturbing behaviour of the tenant and her numerous guests. He said that it appeared that the tenant had left and she had returned the key but he requests an Order of Possession and a monetary order in order to establish his legal rights. The tenant did not submit any documentary evidence to dispute and did not attend the hearing.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. The Tenant has not made application pursuant to Section 47 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. The tenancy ended on May 31, 2013. An Order of Possession is issued effective two days from service.

Monetary Order

I find that there are rental arrears in the amount of \$700 for May 2013. As explained to the landlord in the hearing, he is limited to the amount he claimed on his Application as this is the amount of which the tenant had notice but he is at liberty to file another Application to claim further amounts owed within the legislated time limits.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the rental amount owing and to recover filing fees paid for this application. I give the landlord leave to reapply within the legislated time limits for any further amounts owed by the tenant.

Calculation of Monetary Award:

Rent for May 2013	700.00
Filing fee for the application	50.00
Less security deposit	-350.00
Total Monetary Order to landlord	400.00

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: June 20, 2013

Residential Tenancy Branch