



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, OPB, MND, MNR, FF

Introduction

This hearing dealt with two related applications. File A is the tenant's application for an order setting aside a 10 Day Notice to End Tenancy for Non-Payment of Rent. File B is the landlord's application for an order of possession and a monetary order. The tenant was properly served with the landlord's application for dispute resolution and notice of hearing by registered mail. The landlord appeared at the hearing; the tenant did not.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, on what terms?
- Is the landlord entitled to a monetary order and, if so, on what terms?

Background and Evidence

This month-to-month tenancy commenced August 1, 2009. The monthly rent of \$700.00 is due on the first day of the month. The tenant paid a security deposit of \$350.00.

The June rent was paid by a cheque dated May 23, 2013. The cheque was returned "NSF" by the tenant's bank. On June 1, 2013 the landlord issued and posted a 10 Day Notice to End Tenancy for Non-Payment of Rent.

The tenant filed an application disputing the notice within the required time but did not appear at the hearing. She has not paid the May or June rent and continues to reside in the rental unit.

The landlord knows that the unit has been damaged. Her application included a claim for the estimated cost of repairs and cleaning, however, since the tenant is still in the rental unit and the full extent of the damages will not be known until after the tenant vacates it; the landlord withdrew her claim for damages.

Analysis

As the tenant did not appear at the hearing, her application is dismissed.

Section 55(1) of the *Residential Tenancy Act* provides that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed, the dispute resolution officer must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing, the landlord makes an oral request for an order of possession.

The landlord did make an oral request for an order of possession. The landlord is entitled to an order of possession effective two days after service on the tenant.

I find that the landlord has established a total monetary claim of \$1450.00 comprised of arrears of rent for June and July in the amount of \$1400.00 and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit of \$350.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$1100.00..

Conclusion

- a. An order of possession effective two days after service on the Tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$1100.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.
- c. The landlord has leave to file a claim for cleaning and damages after the tenant has vacated the unit, within the time limits of section 60 of the Act.

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: July 08, 2013

Residential Tenancy Branch