



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 a landlord's application for an Order of Possession for cause; a Monetary Order for unpaid and/or loss of rent; and, authority to retain the security deposit. The tenant did not appear at the hearing. The landlord provided a registered mail receipt, including tracking number, as proof of sending the hearing package to the tenant via registered mail on July 18, 2013. The landlord confirmed that the address used for service was that of the rental unit and that the tenant continues to reside at the rental unit. I was satisfied the tenant has been sufficiently served with notice of this proceeding and I continued to hear from the landlord in the absence of the tenant.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession?
2. Is the landlord entitled to a Monetary Order for unpaid and/or loss of rent?
3. Is the landlord authorized to retain the security deposit?

Background and Evidence

The tenant moved into the rental unit at the end of April 2013. The tenant paid a security deposit of \$600.00 and is required to pay rent of \$1,200.00 on the 1st day of every month.

The tenant did not pay rent for June 2013. On June 26, 2013 the landlord personally served the tenant with a 1 Month Notice to End Tenancy for Cause with a stated effective date of July 31, 2013. The landlord communicated to the tenant that if she paid the outstanding rent and the rent for July 2013 by July 1, 2013 the landlord would withdraw the 1 Month Notice. The tenant did not pay the outstanding rent for June and did not pay rent for July 2013. The tenant did not file to dispute the 1 Month Notice. The tenant continues to occupy the rental unit and has not paid rent or monies for use and occupancy for the month of August 2013.

The landlord seeks an Order of Possession as soon as possible as well as a recovery of unpaid and/or loss of rent for three months (June, July and August 2013) in the amount of \$3,600.00. The landlord requested authorization to retain the security deposit in partial satisfaction of the rent owed.

The landlord provided copies of the following documentation: the tenancy agreement; the 1 Month Notice dated June 26, 2013; a 10 Day Notice dated July 1, 2013; and, the registered mail receipt.

Analysis

Where a tenant received a 1 Month Notice to End Tenancy for Cause, the tenant has 10 days to file an Application for Dispute Resolution to dispute the Notice. Pursuant to section 47 of the Act, if the tenant does not file to dispute the Notice the tenant is conclusively presumed to have accepted the tenancy will end on the effective date of the Notice.

I am satisfied the tenant was served with a 1 Month Notice and did not file to dispute the Notice. I also accept the undisputed testimony of the landlord that the 1 Month Notice was not withdrawn as the tenant did not pay the outstanding rent and July's rent as required by the landlord in order for the landlord to withdraw the Notice. Therefore, I find the tenancy ended on the effective date of July 31, 2013.

Since the tenant continues to occupy the rental unit and the tenancy has ended I grant the landlord's request for an Order of Possession. I provide the landlord with an Order of Possession effective two (2) days after service upon the tenant.

Based upon the undisputed evidence before me that the tenant failed to pay rent for June and July 2013 I find the landlord is entitled to unpaid rent for those months. Further, since the tenant has continued to occupy the rental unit despite the end of the tenancy I also award the landlord loss of rent for the month of August 2013. Therefore, I award the landlord recovery of \$3,600.00 for unpaid and/or loss of rent.

I award the filing fee to the landlord and authorize the landlord to retain the security deposit in partial satisfaction of the rent owed to the landlord.

In light of the above, the landlord is provided a Monetary Order calculated as follows to serve and enforce as necessary:

Unpaid / Loss of Rent (June – august 2013)	\$3,600.00
Filing fee	50.00
Less: security deposit	<u>(600.00)</u>
Monetary Order for landlord	\$3,050.00

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service. The landlord has been authorized to retain the security deposit and has been provided a Monetary Order for the balance of \$3,050.00 to serve and enforce as necessary.

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: August 21, 2013

Residential Tenancy Branch

