



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNSD, MNR, FF

Introduction

This hearing was convened in response to applications by the landlords and the tenant.

The landlords' application is seeking orders as follows:

1. For an order of possession for unpaid rent and utilities;
2. For a monetary order for unpaid rent and utilities;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a notice to end tenancy; and
2. To recover the cost of filing the application.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary and procedural issues

The landlord attended the hearing. As the tenant (DF) did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were not served on the tenant (DF) as the tenant has moved out of the rental unit and does not have a forwarding address. As a result this hearing was unable to proceed against the tenant (DF). The landlords' are at liberty to reapply against the tenant (DF).

The tenant's Application for Dispute Resolution indicates there is a tenant named (MM). However, this applicant is not on the signed tenancy agreement and was never added as a co-tenant. Therefore, I find (MM) is not a tenant under the Act and is merely an occupant and has no legal rights under the Act. As a result, the name of (MM) was removed from the style of cause.

The hearing proceed with the landlords and the tenant (AM).

Issues to be Decided

Should the notice to end tenancy for unpaid rent and utilities be cancelled?
Are the landlords entitled to an order of possession?
Are the landlords entitled to a monetary order for unpaid rent and utilities?
Are the landlords entitled to compensation for damages to the unit?

Background and Evidence

The parties entered into a fixed term tenancy which began on July 1, 2012 and was to expire on June 30, 2013. At the end of the fixed term the tenancy continued on a month to month basis thereafter. Rent in the amount of \$900.00 was payable on the first of each month. A security deposit of \$450.00 was paid by the tenants.

Based on the evidence, I find that the tenant was served with a notice to end tenancy for non-payment of rent issued on July 1, 2013. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord testified that the tenants owed \$6,648.84 in unpaid rent and utilities as of July 4, 2013. The landlord stated the tenant has not paid rent owed for August 2013.

The tenant testified that she has not paid the outstanding rent indicated in the notice and has not paid any rent for August 2013. The tenant also acknowledged that they have not paid any utilities for June and July 2013.

The landlord testified that on April 1, 2013, he had to call a plumber to attend the tenant's rental unit as the pipes were leaking. The landlord stated the leaks were caused by the tenant having someone alter the plumbing to accommodate a dishwasher. The landlord stated the tenants were not authorized to make any alteration to the plumbing and the person who made the alterations was not a licensed plumber. The landlord seeks to recover the cost of the plumber in the amount of \$581.78. Filed in evidence is an invoice from the plumber with extensive notes.

The tenant testified that she does not agree with the notes the plumber made as they never used any soldering equipment. The tenant stated they did install a dishwasher

that weekend and they had to be shut off the water to her unit and another unit. The tenant stated there were no prior leaks before the dishwasher was installed.

When the tenant was questioned the tenant changed her testimony and said that there had always been a small leak under the kitchen sink.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

While the tenant applied to dispute the notice to end tenancy issued on July 1, 2013. I find the tenant's application has no merit as the tenant admitted that rent was outstanding at the time the notice was issued and has not paid the outstanding rent owed or any rent for August 2013. Therefore, I dismiss the tenant's application without leave to reapply.

I further find that the tenant is not entitled to recover the filing fee from the landlord as there was no merit to their application.

The tenant failed to pay the outstanding rent with five days of receiving the notice to end tenancy as required by the Act. I find that the landlords are entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlords have established a monetary claim of comprised of unpaid rent and utilities in the amount of **\$7,548.84**.

In this case, the landlords are seeking to recover the cost of having a plumber attend the rental unit due to leaking pipes. The evidence of the landlord was the tenants altered the pipes to accommodate a dishwasher which they did not have permission to install. The evidence of the tenant was conflicting as she first indicated there were no leaking pipes prior to them installing the dishwasher, however, when questioned later testified that there had always been a leak under the sink.

Submitted in evidence by the landlord is the plumber's invoice which contains extensive note which in part reads,

"...Found numerous leaks in piping and fittings due to poor and dangerous workmanship on the part of the tenant. Fixed all visible leaks. *Tenant made us aware that they intend to do more plumbing themselves..."

[Reproduced as written.]

In light of the above testimony and documentary evidence, I prefer the evidence of the landlord that the tenant caused the pipes to leak when altering the pipes to have a

dishwasher installed as this is support by the plumber's invoice which was submitted as documentary evidence. Therefore, I find the landlords are entitled to recover the plumbers invoice in the amount of **\$581.78**

I find that the landlords have established a total monetary claim of **\$8,230.62** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the deposit and interest of **\$450.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$7,780.62**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant failed to pay rent, the tenant's application to cancel a notice to end tenancy for nonpayment of rent is dismissed.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 07, 2013

Residential Tenancy Branch

