



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPC, MND, MNR, MNDC, FF

Introduction

This hearing dealt with an application submitted by the landlord seeking an Order of Possession based on A One-Month Notice to End Tenancy for Cause. The landlord was also seeking monetary compensation for damages.

Despite being served in person on July 11, 2013, the tenant did not appear. The hearing therefore proceeded in the tenant's absence.

Preliminary Issue

In regard to the landlord's monetary claim, the landlord testified that the tenant owes rent and damages. However, the landlord did not serve the tenant a 10-Day Notice to End Tenancy for Unpaid Rent.

The Residential Tenancy Rules of Procedure, Rule 2.3 states that, in the course of the dispute resolution proceeding, if the arbitrator determines that it is appropriate to do so, he or she may dismiss the unrelated disputes contained in a single application with or without leave to reapply.

In this instance, I found that the landlord's monetary claim pertained to a separate and distinct section of the Act that was not connected to the section of the Act related to issuing a One Month Notice to End Tenancy for Cause and seeking an order to enforce the Notice.

Accordingly, I find that the monetary portion of this application should be severed and the matter must be dealt with through an application under section 67 of the Act. Therefore the landlord's request for a monetary order is dismissed with leave to reapply

Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession based on the One-Month Notice to End Tenancy for Cause?

Background and Evidence Notice to End Tenancy

The landlord testified that the tenancy had originally started on March 1, 2013, at which time the tenant paid a security deposit of \$187.50. The landlord testified that the tenant was issued a One-Month Notice to End Tenancy for Cause. A copy of the One-Month Notice to End Tenancy for Cause dated May 10, 2013 was submitted into evidence.

The landlord testified that testified that the tenant did not file an application to dispute the Notice, and has refused to vacate the unit.

Analysis

Under section 47 of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause and section 47(2) of the Act states that a notice under this section 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.

The Act states that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice. However, if a tenant who has received a notice under section 47 does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

In this instance, the tenant failed to make an application to dispute the One-Month Notice. Therefore I find that under the Act an Order of Possession must be issued in favour of the landlord based on the One-Month Notice.

I hereby grant the landlord an Order of Possession effective two days after service. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court

I find that the landlord is entitled to be reimbursed for the \$50.00 cost of filing this application. I order that this amount may be retained from the tenant's security deposit of \$187.50, leaving a balance of \$137.50 still held on behalf of the tenant. The remaining security deposit must be administered in compliance with section 38 of the Act.

Conclusion

The landlord is successful in the application and is granted an Order of Possession based on the One Month Notice to End Tenancy for Cause and is ordered to retain the \$50.00 cost of the application from the tenant's security deposit.

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 13, 2013

Residential Tenancy Branch

