Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ADVENT REAL ESTATE SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes   OPR, MNR, MNDC, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession and Monetary Order unpaid and/or loss of rent. The tenant did not appear at the hearing. The landlord provided a copy of a registered mail receipt dated July 12, 2013 as proof the hearing documents were sent to the tenant at the rental unit via registered mail. The landlord confirmed that the tenant continues to occupy 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 without the tenant present.

Preliminary and Procedural Matters

Although the landlord did not indicate the appropriate dispute codes for requesting a Monetary Order, I found that in the details of dispute the landlord provided sufficient information indicating the landlord was seeking to recover unpaid and/or loss of rent for the months of June and July 2013. I have amended the application to include the appropriate dispute codes and have considered the landlord's request for a Monetary Order.

I determined the landlord named an occupant in filing this application and I have amended the application to exclude the name of the occupant.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid and/or loss of rent, and late fees for the months of June and July 2013?

Background and Evidence

The tenancy agreement commenced May 1, 2013 although the tenant was provided occupancy of the rental unit starting April 15, 2013. The landlord collected a $1,000.00 security deposit. The tenant is required to monthly rent of $2,000.00 on the 1st day of every month for a fixed term set to expire April 30, 2014.

The tenant failed to pay rent owed for May 2013 when due and on May 22, 2013 the landlord served a 10 Day notice to End Tenancy for Unpaid rent. The tenant paid the outstanding rent owed for May 2013 near the end of May and the 10 Day Notice was nullified or the tenancy reinstated.

The tenant failed to pay rent due on June 1, 2013 and on June 10, 2013 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit. The 10 Day Notice issued June 10, 2013 indicates $2,000.00 was outstanding as of June 1, 2013 and has a stated effective date of June 23, 2013. The tenant paid only $525.00 after the 10 Day Notice was served. The tenant has not paid any monies for the months of July or August 2013 and continues to occupy the rental unit.

The landlord submitted that clause 10 of the tenancy agreement provides for an administrative charge of up to $25.00 for non-payment or late payment of rent. With respect to the $525.00 payment the landlord applied $500.00 toward the outstanding rent and $25.00 toward the late fee charged for June 2013.

In filing this application, the landlord requested recovery of unpaid rent of $1,500.00 for June 2013, loss of rent for July 2013 in the amount of $2,000.00, and a late fee for July 2013 in the amount of $25.00.

Analysis

Under the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement. Where a tenant does not pay rent the landlord is at liberty to issue a 10 Day Notice to End Tenancy.

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I accept the evidence before me that the landlord served a 10 Day Notice to the tenancy by posting it to the door of the rental unit on June 10, 2013 and the stated effective date of June 23, 2013 complies with the Act.

Since the tenant did not pay all of the outstanding rent or dispute the 10 Day Notice issued June 10, 2013 within five days of receiving the Notice I find the tenancy ended on June 23, 2013. As such, I am satisfied the landlord is entitled to regain possession of the rental unit and I provide the landlord an Order of Possession effective two (2) days after service upon the tenant.

Based upon the evidence before me, I find the landlord entitled to recover unpaid rent for June 2013 in the amount of $1,500.00 and loss of rent for the month of July 2013 in the amount of $2,000.00. I accept that the landlord was entitled to charge a late fee for June 2013; however, I make no award of a late fee for July 2013 as the tenancy agreement providing for payment of a late fee came to an end June 23, 2013.

I further award recovery of the $50.00 filing fee to the landlord.

In light of the above, I provide the landlord a Monetary Order in the sum of $3,550.00 [$1,500.00 + $2,000.00 + $50.00] to serve upon the tenant and enforce as necessary.

The landlord remains at liberty to file a future application to recover loss of rent for subsequent months and any other damages or loss the landlord is entitled to recover under the Act and tenancy agreement.

Conclusion

The tenancy has ended for unpaid rent and the landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been provided a Monetary Order in the amount of $3,550.00 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 13, 2013

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Residential Tenancy Branch