



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, FF

Introduction

This hearing was convened by way of conference call in response to the landlords application for an Order of Possession for cause; for a Monetary Order for unpaid rent or utilities; and to recover the filing fee from the tenants for the cost of this application.

One of the tenants and the landlord with the landlord's agent attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord testified that only the tenant attending the hearing was served with the landlord's application and Notice of hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Preliminary Issues

As only one tenant has been served in accordance with s. 89 of the Residential Tenancy Act (Act); any Orders will be in that tenants name only. The other tenant has not been served and therefore has not been made party to this hearing.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession for cause?
- Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

This month to month tenancy started on March 05, 2013. Rent for this unit is \$750.00 per month plus 50 percent of utilities. Rent is due on the 5th day of each month.

The landlord's agent testifies that the tenants were served a One Month Notice to End tenancy on June 14, 2013. A copy of this Notice has been provided in evidence. The Notice provides eight reasons to end the tenancy and notifies the tenants that they have 10 days to file an application to dispute the Notice. If the tenants do not file an application within 10 days the tenants are presumed to accept the Notice and must move out of the rental unit by the date set out on page one of the Notice. The Notice has an effective date of July 14, 2013.

The landlord's agent testifies that the tenants failed to pay rent for July, 2013 and a 10 Day Notice to End Tenancy was served upon the tenants on August 03, 2013. This Notice informed the tenants that there is outstanding rent of \$750.00. The Notice also informs the tenants that they have five days to either pay the outstanding rent or file an application to dispute the Notice or the tenancy will end on August 16, 2013. The landlord's agent testifies that the tenant did not pay the outstanding rent within five days and also failed to pay rent for August on August 05, 2013. The landlord seeks an Order of Possession due to the One Month Notice and seeks a Monetary Order to recover the outstanding rent of \$1,500.00.

The tenant testifies that he did not know he had to file an application to cancel a Notice to End Tenancy. The tenant testifies that he thought he could just show up at the hearing and dispute the landlords claims.

The tenant testifies that rent for July and August was paid to the landlord on July 05, 2013 and August 05, 2013.

Analysis

When tenants are served with a One Month Notice to End Tenancy the tenants are provided with information on page two of that Notice about how the tenants can dispute the Notice by filing an application for Dispute Resolution. The landlord has provided a copy of this Notice served upon the tenants on June 14, 2013. The tenants have not disputed the One Month Notice within the 10 allowable days as indicated on page two of the Notice.

Consequently, as the tenants did not file an application to dispute the Notice the tenants are presumed to have accepted the end of the tenancy pursuant to s. 47 (5) of the *Act*. The Notice indicates an effective date of July 14 however this date has been amended as the landlord must provide one clear months Notice. The date of that Notice has therefore been amended to July 31, 2013 pursuant to s. 53 of the *Act*. The landlord is therefore entitled to an Order of Possession pursuant to s. 55 of the *Act*.

As only one tenant has been served with the landlords application and Notice of Hearing letter the Order of possession will be in the tenant's name who was served. Co-tenants are two or more tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly responsible for meeting the terms of the tenancy agreement.

Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord. When there are Co-tenants named on a tenancy agreement and the tenancy is ending then both tenants must vacate the rental unit as ordered.

With regard to the landlords claim for unpaid rent, a 10 Day Notice was served upon the tenants on August 03, 2013. This Notice informed the tenants that rent for July of

\$750.00 was outstanding. The tenants had five days to dispute that the rent was outstanding and failed to do so. The tenant attending argues that the rent was paid however the tenants has the burden of proof to show that rent was paid and have failed to do so. I am satisfied with the landlord's claim for unpaid rent of \$1,500.00 and I issue the landlord with a Monetary Order for this amount pursuant to s. 67 of the *Act*.

The landlord is entitled to recover the \$50.00 filing fee from the tenant pursuant to s. 72(1) of the *Act*.

Conclusion

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

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,550.00**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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 16, 2013

Residential Tenancy Branch

