



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord's daughter and son called in and participated in the hearing. The named tenant also called in and took part in the hearing.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on June 15, 2013 although the tenants moved into the unit on or about June 17th. The tenancy agreement is for a three year fixed term. The monthly rent is \$1,500.00 payable on the 15th of each month. The tenant paid a \$600.00 security deposit after the tenancy commenced. The tenants have paid no rent and they continue to occupy the rental unit. On July 6, 2013 the landlord served the tenants with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. At the hearing the tenant complained that she was not given a receipt for the \$600.00 security deposit. She acknowledged that no rent has been paid and said that the tenants would be moving out shortly.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenants

do neither of these two things, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is 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.

Monetary Order and Security Deposit – The landlord claimed \$3,100.00 in her application for dispute resolution. Since then a further month's rent has become due and the tenant acknowledged at the hearing that rent for August was unpaid. I find that the landlord has established a total monetary claim of \$4,500.00 for the outstanding rent for June, July and August. The landlord also sought to claim amounts that were intended to be instalments on account of a pet security deposit, but since the tenancy is ending there is no basis for a claim for a pet deposit. The landlord submitted evidence that the tenants have damaged the rental unit, but the extent of the damage and the cost of repairs has not been established. I find that the damage claim is premature and it is dismissed with leave to reapply once the rental unit has been properly inspected, the damage assessed and repairs have been carried out. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$4,550.00. I order that the landlord retain the security deposit of \$600.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3,950.00. This order may be filed in the Small Claims Court and enforced 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 20, 2013

Residential Tenancy Branch

