



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, MNR, MND, CNC, MNSD, LRE, LAT, FF

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent, cost of repairs and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim.

The tenant applied for an order to cancel the notice to end tenancy and for an order authorizing the tenant to change locks and to impose conditions on the landlord's right to enter the unit. The tenant also applied for the return of the security deposit and for the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

At the start of the hearing, the tenants indicated that they had plans to move out effective October 15, 2013. An order of possession will be granted to the landlord for this date. Since the tenancy is ending, the tenants' application to change locks and restrict entry to the unit by the landlord is moot and accordingly dismissed.

The tenancy will end on October 15, 2013 and the landlord indicated that she is aware of damage to the rental unit and would like to retain the security deposit towards the cost of repairs. Since the tenancy has not yet ended and the landlord is not sure of the extent of the damage, I dismiss the landlord's application for damages and to retain the security deposit with leave to reapply after the tenancy ends. For the same reason, the tenants' application for the return of the security deposit is dismissed with leave to reapply.

The female tenant provided the landlord with her work address that she stated could be used as her forwarding address.

Therefore this hearing only dealt with the landlord's application for a monetary order for rent and the filing fee and the tenant's application for the filing fee.

Issues to be decided

Is the landlord entitled to a monetary order for unpaid rent and the filing fee? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The landlord and tenant entered into a tenancy agreement on June 01, 2013. The rent is \$975.00 per month due on the first day of each month.

The landlord stated that the tenant had failed to pay rent for both September and October and owed a total of \$1,950 towards unpaid rent. The tenants agreed that they had not paid rent for October, but stated that they had paid rent for September to the landlord's daughter "Michelle".

The male tenant stated that he had paid "Michelle" rent in three installments and later changed it to two installments. The female tenant stated that they had paid one installment of \$900.00 to "Michelle" on or about October 01, 2013. The tenants did not have a receipt and stated that the landlord had not issued any receipts for rent right from the start of the tenancy.

I asked the tenants whether they had paid rent to "Michelle" before and they stated they had always paid rent directly to the landlord, except for the month of September when they paid the landlord's daughter. The landlord stated that her daughter's name was not "Michelle" and that no rent had been paid for September.

Analysis

The tenant agreed to move out on or before October 15, 2013. Pursuant to section 55, I am issuing a formal order of possession effective this date. The Order may be filed in the Supreme Court for enforcement.

Based on the sworn testimony of both parties, I accept the landlord's evidence in respect of the monetary claim.

Regarding rent for September, I prefer the testimony of the landlord. I find that the tenants testified and then contradicted their own testimony. The female tenant's testimony regarding payment of rent for September was different from the male's testimony. In addition the landlord stated that she did not have a daughter named "Michelle" who the tenants stated, was the person that collected rent for September. Therefore I find that the tenants have not proven that they paid rent for September.

As agreed to by the tenant, I find that the tenant did not pay rent for October and now owes the landlord a total of **\$1,950.00** in unpaid rent. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of **\$50.00**.

The tenants have not proven their case and must bear the cost of filing their application

Accordingly, I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of **\$2,000.00** which consists of \$1,950.00 for unpaid rent plus \$50.00 for the filing fee. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective on or before **1:00 pm on October 15, 2013**. I also grant the landlord a monetary order in the amount of **\$2,000.00**.

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: October 04, 2013

Residential Tenancy Branch

