



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: MND, MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on a Notice to End Tenancy for Unpaid Rent, a monetary order for accrued rental arrears owed and a monetary order for repair costs for damage to the suite.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent?

Is the landlord is entitled to monetary compensation for rental arrears owed?

Is the landlord entitled to monetary compensation for damages and losses?

Background and Evidence

The tenancy began approximately 2 years ago and the current monthly rent is \$1,000.00 per month. A security deposit of \$500.00 was paid.

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy for Unpaid Rent confirming that, as of August 31, 2013, the tenant had fallen into arrears.

The landlord testified that the tenant failed to pay \$400.00 rent for March 2013, \$300.00 for April 2013 and \$300.00 for September 2013, for total arrears of \$1,000.00, which is being claimed.

The tenant acknowledged that she did not file to dispute the Ten Day Notice to End Tenancy for Unpaid Rent.

In addition to the rental arrears being claimed above, the landlord is also claiming repair costs of \$300.00 for a broken window.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent in person. The tenant has not paid the arrears and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an Order of Possession.

With respect to rent owed, I find that section 26 of the Act states that rent must be paid when it is due, under the tenancy agreement. I find that the tenant failed to pay the rent when rent was due and never satisfied all of the debt. Accordingly I find that the landlord is entitled to monetary compensation for rental arrears in the amount of \$1,000.00.

In regard to the landlord's claim for compensation for the window cost, I find that this has not been repaired yet. I also find that the tenant has not yet vacated the suite and therefore the landlord's claim for the repair is premature.

When the tenant vacates, section 37 of the Act requires that the tenant must leave the rental unit reasonably clean and in good repair. I find that the claim for window repairs must be dismissed and I do so granting the landlord leave to reapply. The landlord is at liberty to pursue these claims after the tenancy has ended, the move-out inspection has been completed and after the expenditure has actually occurred.

I find that the landlord is entitled to total compensation of \$1,050.00, comprised of \$1,000.00 in rental arrears and the \$50.00 cost of this application. I order that the landlord retain the tenant's security deposit of \$500.00 in partial satisfaction of the claim, leaving \$550.00 still owed to the landlord.

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 grant the Landlord an order under section 67 for \$550.00. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The remainder of the landlord's application is ordered dismissed with leave to reapply.

Conclusion

The landlord is successful in the application and is granted monetary order for rent owed and an Order of Possession based on the Ten Day Notice to End Tenancy for Unpaid Rent. The other monetary claim for repairs is dismissed with leave as it was found to be premature.

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 21, 2013

Residential Tenancy Branch