



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Both parties attended and the tenant agreed she received personally both the Notice to end Tenancy dated September 6, 2013 and the Application for Dispute Resolution. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated September 6, 2013 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced in March 2010, a security deposit of \$600 was paid and rent is currently \$1050 a month. It is undisputed that the tenant now owes \$2850 rent arrears for August, September and October 2013; she paid \$600 on October 24, 2013. The tenant said she had experienced unfortunate circumstances and plans to vacate.

The landlord also included \$300 in damages in his claim. He said some cupboard doors and windows were broken but he has not repaired them nor has he provided any professional estimate for the cost of repair. The tenant said that she believed her father would repair these items before she leaves. After discussion of the options, the parties agreed to settle on the following terms and conditions:

Settlement Agreement

1. The tenant owes \$2850 in rent arrears to October 31, 2013.
2. The tenant will vacate the premises on November 15, 2013 and the garage on November 30, 2013 and the landlord will receive an Order of Possession for those dates.

In evidence is the Notice to End Tenancy. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession for the premises is issued effective November 15, 2013, and for the garage effective November 30, 2013 pursuant to the above noted settlement agreement.

I find that there are rental arrears in the amount of \$2850 representing rental arrears from August 2013 to October 31, 2013. I find insufficient evidence to support the landlord's claim for damages; I dismiss this portion of his claim with leave to reapply.

Conclusion:

I find the landlord is entitled to an Order of Possession effective November 15, 2013 and a monetary order including filing fees for this application. The security deposit of \$600 remains in trust to be dealt with in accordance with section 38 of the Act after the tenant has vacated. I give the landlord leave to reapply for further amounts owed.

Calculation of Monetary Award:

Rental arrears to Oct. 31, 2013	2850.00
Filing fees	50.00
Total Monetary Order to landlord	2900.00

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 30, 2013

