



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capreit
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a Monetary Order for outstanding rent, and a request for recovery of the \$50.00 filing fee.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is landlord entitled to a Monetary Order, and if so for what amount?

Background and Evidence

The applicant testified that:

- The tenant was given a illegal rent increase which increased the rent for November 1, 2013.
- The tenant failed to pay the rent increase on November 1, 2013, and therefore on November 6, 2013 the tenant was served with a 10 day Notice to End Tenancy.
- The tenant did not pay the outstanding rent within the five day grace period; however the outstanding rent was accepted for use and occupancy only on November 26, 2013.
- The tenant however has now failed to pay a \$34.20 rent increase for the month of January 2014, and has also failed to pay her January 2014 \$25.00 parking fee.
- The December 2013 rent and the remainder of the January 2014 rent was accepted for use and occupancy only.
- They are therefore requesting an Order of Possession for soon as possible, and a Monetary Order as follows:

January 2014 rent outstanding	\$34.20
January 2014 parking fee outstanding	\$25.00
Filing fee	\$50.00
Total	\$109.20

The tenant testified that:

- She did fail to pay the rent increase on November 1, 2013.
- She received a copy of the Notice to End Tenancy on November 6, 2013.
- On November 14, 2013 she went into the landlord's office to attempt to pay the outstanding amount, however the landlord's interact machine was not working and as a result she was unable to pay on that date.
- She subsequently paid the outstanding rent on November 26, 2013.
- She has not paid the rent increase for January 2014, because she wants to know why some other tenants have been told they will not get rent increases. Why is she being singled out?
- She has also failed to pay the parking fee, as she has found out that some other tenants don't have to pay for parking, and she wants to know why.

In response to the tenant's testimony the landlord testified that:

- She is not aware of any tenants having been told that they will not get any rent increases; at times they will forgo a rent increase for a one-year period if the tenant is having financial difficulty.
- The reason some people don't have to pay for parking is because during previous management parking was included in some rental contracts.
- This tenant however agreed to pay \$25.00 per month for her parking.

Analysis

It is my finding that the notice of rent increase served on the respondent was a valid notice of rent increase which legally increase the rent by \$34.20 as of November 1, 2014. Therefore when the tenant failed to pay that \$34.20, the landlord had the right to give a Notice to End Tenancy for nonpayment of rent.

The tenant admitted at the hearing that she received the Notice to End Tenancy on November 6, 2013, and therefore she had a grace period of five days to pay the rent and thereby void the Notice to End Tenancy.

The tenant did not pay the outstanding rent within the five-day grace period, and by her own admission did not even attempt to pay it until November 14, 2013, which is eight days after the notice was served, and three days past the grace period.

It is my decision therefore that since all monies collected since that time have been accepted for use and occupancy only, the landlord has the right to an Order of Possession.

Further, the tenant has admitted that she has failed to pay \$34.20 of the January 2014 rent, and has failed to pay the \$25.00 parking fee for January 2014. I therefore also allow the landlord's request for a monetary order.

Whether or not other tenants in the rental property were given rent increases, or are required to pay parking fees is irrelevant to this tenancy. As stated above the rent increase was legally given, and the tenant agreed to pay a \$25.00 parking fee when she was given a parking space.

I also allow the landlord's request for recovery of the \$50.00 filing fee

Conclusion

I have issued an Order of Possession for January 31, 2014.

I've issued a Monetary Order in the amount of \$109.20.

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: January 15, 2014

Residential Tenancy Branch

