



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, OLC, RP, PSF, RPP, OPR, MNR, MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Tenant applied on January 6, 2014 for:

1. More time to cancel a notice to end tenancy – Section 66;
2. An Order cancelling a Notice to End Tenancy – Section 46;
3. An Order compelling the Landlord to comply with the Act - Section 62;
4. An Order compelling the Landlord to make repairs – Section 32;
5. An order for the landlord to provide services or facilities required by law – Section 65; and
6. An Order for the return of the tenant’s personal property – Section 65.

The Landlord applied on January 9, 2014 for:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent or utilities - Section 67;
3. A Monetary Order for compensation – Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

During the Hearing the Parties agreed that the Tenants would be moved out of the unit by 1:00 pm on February 28, 2014 and that the Landlord would be entitled to an order of possession effective on this date. The Tenant states that they currently have no electricity, heat or running water. The Landlord is ordered to reinstate the Tenants' electricity, heat and water until the tenancy ends. The Tenant's remaining claims are otherwise dismissed.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on October 1, 2013. Rent of \$1,100.00 is payable monthly and at the onset of the tenancy the Landlord collected \$450.00 as a security deposit.

The Landlord states that after the Tenants paid the security deposit no further rents were received until November 18, 2013 when the Landlord received \$1,000.00 in cash, November 28, 2013 when the Tenants paid \$100.00 in cash and December 1, 2013 when the Tenants paid \$525.00 in cash. The Landlord states that no receipts were given to the Tenant at the time but that the receipts for the above noted cash payments are being held for the Tenants to pick up. The Tenant states that all rents were paid to the end of December 2013 and that despite asking for receipts for the cash payments the Landlord refused to provide receipts and yelled at the Tenants. The Tenant does not dispute that rent for January and February 2014 is unpaid. The Landlord states that a ministry cheque for \$285.00 was also received in November 2013 and it is noted that this amount was not deducted from the rents claimed by the Landlord in the application.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Section 7 of the Act provides that where a tenant does

not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Given the Tenant's evidence that all rents were paid to the end of December 2013, considering the Landlord's evidence that no receipts were provided to the Tenant for the cash amounts paid and the Landlord's evidence of additional amounts received from the ministry in November 2013 that is not reflected in the amount claimed by the Landlord, I find that the Landlord has only substantiated unpaid rent for January and February 2014 in the amount of **\$2,200.00**. The Landlord is also entitled to recovery of the filing fee for a total entitlement **of \$2,250.00**. Deducting the security deposit of **\$450.00** plus zero interest leaves \$1,800.00 owed by the Tenants to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord effective 1:00 p.m. on February 28, 2014.

I order that the Landlord retain the **deposit** and interest of \$450.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,800.00**. If necessary, 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: February 19, 2014

Residential Tenancy Branch

