



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Park Royal Ventures
and [tenant name suppressed to protect privacy]

DECISION

Codes: MNR, OPR, FF

Introduction:

This was an application by the landlord for an Order for Possession and a Monetary Order. Both the landlord's agent and tenant attended the application.

Issues:

Is the landlord entitled to an Order for Possession and Monetary Order?

Background and Evidence:

The landlord's agent testified that the tenancy began on July 1, 2013 with rent in the amount of \$ 1,295.00 due in advance on the first day of each month. The tenant paid a security deposit of \$ 647.50 on June 26, 2013. The landlord's agent testified that the Notice to End the tenancy was served on January 21, 2014 by posting it to the tenant's door and the dispute resolution package by registered mail on February 27, 2014. The landlord's agent testified that the arrears from February through March are \$ 1,935.10. The landlord is also claiming a late fee of \$ 25.00 for March 2014.

The tenant testified that she had difficulty paying the rent recently as there was a problem with her housing subsidy and disability payment. She testified that the Ministry of Social Services had issued a cheque amounting to \$ 650.00 which the landlord should have by March 26, 2014. She asked for the landlord's indulgence in not executing any Order for Possession until April 30, 2014 as she hoped to have her affairs in place by then.

Analysis:

Based on the evidence of the landlord I find that the tenant was deemed to have been personally served with a Notice to End Tenancy for non-payment of rent on January 24, 2014 by posting it to the door. The tenant admitted service of the Application for Dispute Resolution. The tenant has not paid all the outstanding rent on time and has not applied for arbitration to dispute the Notice and is therefore conclusively presumed 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 for possession effective two days after service on the tenant. However it is hoped that the landlord and tenant can come to an agreement as to if and when this tenancy will come to an end.

I find that the landlord has established a claim for unpaid rent totalling \$ 1,935.10 and the filing fee of \$ 50.00 however I Order the landlord to give the tenant the benefit of any subsequent payments received by the landlord, made on the behalf of this tenant such as without limiting the generality of the forgoing, from the Ministry of Social Services.

Pursuant to paragraph 10 of the tenancy agreement the landlord is claiming \$ 25.00 for the month of February as a late payment fee. That paragraph states:

Late payments..... are subject to an administrative charge of not more than \$ 20.00 each.....”

Section 7(1) of the Regulations made pursuant to the Residential Tenancy Act prescribes that a *landlord may charge an administration fee of not more than \$25 for **late payment** of rents*. Here the tenants did not pay any rent for the months claimed therefore the landlords are not entitled to the late payment charge for monies **not paid**. I have dismissed that claim without liberty to reapply.

Conclusion:

I have granted the landlord an Order for Possession. This order may be filed in the Supreme Court and enforced as an Order of that Court. I order that the landlord retain the deposit and interest of \$ 647.40 and I grant the landlord an order under section 67 for the balance due of **\$ 1,337.60** inclusive of the filing fee herein. This order may be filed in the Small Claims Court and enforced as an order of that Court. This Decision and all Orders must be served on the tenant as soon as possible. I have dismissed all other claims.

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: March 25, 2014

Residential Tenancy Branch

