



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, MNSD, MNR, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, and the filing fee. The landlord also applied to retain the security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Even though the landlord used a code relevant to an order of possession pursuant to a notice to end tenancy for non payment of rent, the notice referred to during the hearing and filed into evidence was a notice for cause. The evidence filed by the landlord to support her application for an order of possession was relevant to a notice to end tenancy for cause. The evidence was served on the tenant by registered mail. Therefore, I find that the tenant was notified of the details of the landlord's application with regard to a notice to end tenancy for cause. Accordingly, I amend the landlord's application to an order of possession pursuant to a notice to end tenancy for cause.

At the start of the hearing the landlord informed me that the tenant had paid all rent owed and was provided with receipts for use and occupancy only. The landlord also requested that her application to retain the security deposit be dismissed with leave to reapply. Since the tenancy has not ended, I dismiss this portion of the landlord's application with leave to reapply. Accordingly, this hearing only dealt with the landlord's application for an order of possession and the recovery of the filing fee.

Issues to be decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy started on January 01, 2012. The rent is \$1,087.35 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$537.50.

The landlord testified that the tenant paid rent late repeatedly and was served several ten day notices to end tenancy. The landlord filed a statement of accounts that show that the tenant paid rent on October 07, November 13, December 12, January 17, February 12 and March 04, 2014. The tenant agreed that she had paid rent late for all these months. The tenant stated that she had some difficulty with her job and her bank.

On February 06, 2014; the landlord served the tenant with a thirty day notice to end tenancy for cause. The reason for the notice is that the tenant was repeatedly late paying rent. The landlord has applied for an order of possession effective on or before 1:00pm on April 30, 2014 and for the recovery of the filing fee of \$50.00.

Analysis

In order to support the notice to end tenancy, the landlord must prove the reason for the notice to end tenancy namely that the tenant repeatedly paid rent late. Pursuant to section 38 of the *Residential Tenancy Policy Guideline*, three late payments are the minimum number sufficient to justify a notice under these provisions. The tenant agreed that she had paid rent late every month from November 2013 to March 2014. Therefore, I find that the landlord has proven the reason for the notice to end the tenancy for cause and accordingly, I uphold the notice to end tenancy.

Pursuant to section 55(2) I am issuing a formal order of possession effective on or before 1:00pm on April 30, 2014. The Order may be filed in the Supreme Court for enforcement. Since the landlord has proven her case, I allow her to retain the filing fee of \$50.00 from the security deposit.

Conclusion

I grant the landlord an order of possession effective on or before 1:00pm on April 30, 2014. The landlord may retain \$50.00 from the security deposit.

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: April 17, 2014

Residential Tenancy Branch

