



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Fireside Property Group Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord attended the teleconference hearing and gave evidence, however the tenant did not attend. The landlord gave evidence that the tenant was served with the Notice of a Dispute Resolution Hearing and Landlord's Application for Dispute Resolution by registered mail on April 25, 2014. I find the tenant was properly served.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord gave evidence that there is a security deposit of \$320.00 that was paid by the tenant's previous roommate on March 1, 2009. The landlord provided a copy of a notice of rent increase which indicates that the tenant's rent was increased from \$706.00 to \$722.00 effective March 1, 2014.

The landlord gave evidence that she served the tenant with a Notice to End Tenancy for Unpaid Rent (the "Notice") by posting the Notice on the tenant's door on April 3, 2014. Section 90 provides that a Notice served in this manner is deemed to be received by the tenant three days later, on April 6, 2014. The Notice indicates that the tenant failed to pay rent of \$1,091.00 that was due April 1, 2014. The landlord's evidence is that the \$1,091.00 amount is comprised of \$369.00 that was outstanding from March 2014 and \$722.00 that was due for April 2014.

The landlord gave evidence that the tenant has made no further payments since the Notice was served, and the tenant continues to occupy the rental unit. The landlord gave evidence that she entered the rental unit for an inspection on May 5, 2014 and the rental unit will require a great deal of cleaning and repair before it can be shown to new potential tenants. The landlord therefore claims a loss of rental income for the full month of May 2014.

Analysis

I find the tenant received the Notice on April 6, 2014. I accept the landlord's evidence that the tenant has made no further payments. According to Section 46(5), if a tenant does not pay the rent or make application for dispute resolution within five days of receiving the Notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. For these reasons, I find that the landlord is entitled to an order of possession. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I accept the landlord's evidence that the tenant continues to occupy the rental unit, and the rental unit will require cleaning and repair before it can be shown to new potential tenants. For that reason, I find it is appropriate that I allow the landlord to amend her Application for Dispute Resolution to include a claim for May 2014 rent. The landlord is entitled to recover the amount specified on the Notice of \$1,091.00 plus \$722.00 rent for April 2014. The landlord is also entitled to recover her RTB filing fee of \$50.00.

The total amount due the landlord is \$1,863.00. I order that the landlord retain the security deposit of \$320.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,543.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession and a monetary order for \$1,543.00. The landlord is also entitled to retain 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: May 13, 2014

Residential Tenancy Branch

