



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery April 5, 2014. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

It should be note the Tenant made an application , but the Tenant did not pick the hearing package up from the Residential Tenancy Branch; therefore the application was considered abandoned and was cancelled.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?
4. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

The Tenant moved into the unit early on May 4, 2013 and the tenancy started on June 1, 2013 as a month to month tenancy. Rent is \$650.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$325.00 in advance of the tenancy.

The Landlord said that the Tenant did not pay \$100.00 of rent for January and there is unpaid rent for March and April, 2014 of \$650.00 for each month. The Landlord said that because he has just taken over the rental complex on April 4, 2014 he did not submit the supporting documentation to prove there is unpaid rent. Further the

Landlord said it was the previous Property Manager that issued the 1 Month Notice to End Tenancy for Cause. The Landlord said again that because he has just taken over the rental complex he did not have first hand evidence of why the Notice to End Tenancy was issued. The Landlord did say the Tenant has threatened his staff and the Landlord believes the Tenant has some behaviour issues that resulted in the Notice to End Tenancy for Cause being issued on January 27, 2014. The Landlord said he is requesting an Order of Possession for as soon as possible and a monetary order for unpaid rent in the amount of \$1,390.00. The Landlord also requested to recover the filing fee from the Tenant in the amount of \$50.00.

The Tenant and the Tenant's support person said the Tenant has paid his rent and the previous Landlord C.M. treated the Tenant unfairly. The Tenant's support person continued to say that the Tenant paid his rent but did not receive a rent receipt for the last 5 months between December, 2013 and April, 2014. The Tenant said he did receive a rent receipt for May, 2014 in the amount of \$660.00. The Landlord confirmed that the Tenant paid the rent for May, 2014 and the Landlord's agent issued a rent receipt to the Tenant. The Tenant's support person J.P. read the May 2, 2014 rent receipt out loud and the receipt did not say for "use and occupancy only". As a result the Landlord was informed that by issuing the May 2, 2014 rent receipt as valid rent receipt it in affect re-instated the tenancy and cancelled the Notice to End Tenancy issued on January 27, 2014.

Consequently the Landlord was told the Notice to End Tenancy for Cause issued January 27, 2014 was no longer valid and the tenancy was re-instated.

Analysis

As the Landlord has issued a rent receipt dated May 2, 2014 which re-instated the tenancy and in affect cancelled the Notice to End Tenancy dated January 27, 2014; I dismiss the Landlord's request for an Order of Possession based on the 1 Month Notice to End Tenancy for Cause dated January 27, 2014.

With respect to the Landlord's application for unpaid rent there is no evidence submitted with the Landlord's application that corroborates that there is any unpaid rent. As well the Tenant said he has paid all the rent due, but the Tenant has not provided any evidence that the rent was paid in full. As a result of a lack of evidence to prove there is unpaid rent; I dismiss the Landlord's application for unpaid rent with leave to reapply.

As the Landlord has been unsuccessful in this matter I order the landlord to bear the cost of the filing fee of \$50.00 which the Landlord has already paid.

Conclusion

The Landlord's application is dismissed with leave to reapply.

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 05, 2014

Residential Tenancy Branch

