



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF
 MNDC, OLC, ERP, FF

Introduction

This hearing was convened by way of conference call concerning applications made by the landlords and by the tenant. The landlords have applied for an Order of Possession and a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of the application. The tenant has applied for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order that the landlords comply with the *Act*, regulation or tenancy agreement; for an order that the landlords make emergency repairs for health or safety reasons; and to recover the filing fee from the landlords.

One of the landlords attended the hearing and gave affirmed testimony, however no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participant who joined the call was the landlord. Therefore, I dismiss the tenant's application without leave to reapply.

The landlord testified that the tenant was personally served with the Landlord's Application for Dispute Resolution and notice of hearing documents on May 3, 2014 by a process server and provided an Affidavit of Service and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

The landlords also provided evidentiary material to the Residential Tenancy Branch and to the tenant prior to the commencement of the hearing, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent or utilities?

Have the landlords established a monetary claim as against the tenant for unpaid rent or utilities?

Background and Evidence

The landlord testified that this month-to-month tenancy began on March 1, 2014 and the tenant still resides in the rental unit. Rent in the amount of \$700.00 per month is payable in advance on the 1st day of each month. On February 28, 2014 the landlords collected a security deposit from the tenant in the amount of \$350.00 as well as a pet damage deposit in the amount of \$100.00. Both deposits are still held in trust by the landlords.

The landlord further testified that the tenant failed to pay rent when it was due on April 1, 2014 and on April 22, 2014 the landlord served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit. A copy of the 2-page form has been provided, and it is dated April 22, 2014 and contains an expected date of vacancy of May 1, 2014. The notice states that the tenant failed to pay rent in the amount of \$700.00 that was due on April 1, 2014. The landlord also testified that the tenant has not paid any rent since the issuance of the notice.

The landlord testified that the landlords were served with the Tenant's Application for Dispute Resolution, but the application does not dispute the notice to end tenancy issued by the landlords, and the landlords have not been served with any other application by the tenant.

Analysis

The *Residential Tenancy Act* states that a tenant who is served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities must pay the rent in full within 5 days of service or dispute the notice within that 5 day period. If the tenant does neither, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, which must be no less than 10 days after service. In this case, I am satisfied that the tenant was served with the notice on April 22, 2014 by posting it to the door of the rental unit, which is deemed to have been served on April 25, 2014. The *Act* also states that incorrect effective dates contained in a notice to end tenancy are changed to the nearest date that complies with the *Act*, which I find is May 5, 2014. The tenant has not disputed the notice and has not paid the rent and I find that the landlords are entitled to an Order of Possession.

I also accept the testimony of the landlord that the tenant paid rent for the first month of the tenancy but has not paid any rent since, or since the issuance of the notice to end

tenancy. I find that the landlords have established a monetary claim as against the tenant for unpaid rent in the amount of \$2,100.00 for the months of April, May and June, 2014.

Since the landlords have been successful with the application, the landlords are also entitled to recovery of the \$50.00 filing fee for the cost of filing.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

I hereby grant an Order of Possession in favour of the landlords effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,150.00.

These orders are final and binding and may be enforced.

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: June 18, 2014

Residential Tenancy Branch

