



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, OPR, FF, CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order based on the Notice to End Tenancy for Unpaid Rent dated April 17, 2014.

The hearing was also convened to deal with an application by the tenant seeking an order to cancel the Ten Day Notice to End Tenancy for Unpaid Rent.

The landlord was in attendance. Although the tenant was aware of the date scheduled to hear their application and was also served with the landlord's Application for Dispute Resolution and Notice of Hearing, nobody for the tenant appeared.

As the tenant did not appear to present their evidence, the tenant's application is dismissed without leave to reapply.

Issue(s) to be Decided

The remaining issues to be determined based on the testimony and the evidence are:

Is the landlord entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent?

Is the landlord entitled to monetary compensation for rental arrears owed?

Background and Evidence

Submitted into evidence was a copy of the 10-Day Notice to End Tenancy dated April 17, 2014 with effective date of April 27, 2014. No copy of the tenancy agreement was in evidence.

The landlord testified that the tenancy began about a year ago, at which time the tenant paid a security deposit of \$450.00. The landlord testified that the tenant failed to pay

\$600.00 rent owed for the month of April and was issued with a Ten Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant did not pay the arrears and then also failed to pay \$900.00 rent for May and \$900.00 rent for June 2014. The landlord testified that the tenant is now \$2,400.00 in arrears. The landlord has requested an Order of Possession and a monetary order for rent owed.

In addition to the above, the landlord is requesting compensation for utility arrears accrued over several months.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent by personally delivering it to the tenant. on April 17, 2014.. The tenant has not paid the outstanding rent. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$2,450.00 comprised of \$2,400.00 accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit of \$450.00 in partial satisfaction of the claim leaving a balance due of \$2,000.00.

In regard to the landlord's claim for utility arrears based on an enforceable term in the tenancy agreement, I find that section 6 of the Act states that the rights, obligations and prohibitions established under the Act are enforceable between a landlord and tenant under a tenancy agreement and that a landlord or tenant may make an application for dispute resolution if the they cannot resolve a dispute. (my emphasis)

According to the landlord, there is a specific term in the tenancy agreement requiring the tenant to pay for half the utilities for the complex and the tenant failed to pay. However, no copy of the tenancy agreement was placed in evidence. I was unable to examine and interpret the contract term detailing payment of utilities.

Because the term requiring payment of utilities was pursuant to a specific provision within the tenancy agreement and the tenancy agreement is not in evidence before me, I find insufficient evidence was submitted by the landlord that would enable me to grant the utility arrears portion of the landlord's claim. I find that the claim for utility arrears must therefore be dismissed.

Based on the evidence before me, I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served

on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the Landlord an order under section 67 for \$2,000.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The tenant's application is hereby dismissed in its entirety without leave to reapply.

Conclusion

The tenant's application is dismissed in its entirety as the tenant did not attend. The landlord is partly successful in the cross application and is granted an Order of Possession and a monetary order for rental arrears.

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 11, 2014

Residential Tenancy Branch

