



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC OP O

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67; and
- b) An Order of Possession pursuant to Sections 44(1) (c), and 55;

SERVICE:

Both parties attended and agreed they received each other's Application for Dispute Resolution by registered mail. I find that the parties were legally served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

A Mutual Agreement to End the Tenancy dated April 30, 2014 to be effective June 15, 2014 was signed. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental loss?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced on July 1, 2013, a security deposit of \$650 was paid and rent is currently \$1300 a month. It is undisputed that both parties signed a Mutual Agreement to End Tenancy on April 30, 2014 to be effective June 15, 2014 but the tenant brought an Application on June 12, 2014 to be granted more time and an extension to June 30, 2014. However, he has vacated and states he needs more time to get his belongings organized as his new place is smaller.

The landlord said he has had sufficient time and they want to clean and paint the unit for possible new tenants. The tenant said he had inadvertently received an email between the landlords which indicated an intention to sell. The landlord said they have

discussed this each time there is a change in tenancy but submits that is irrelevant as his request for an Order of Possession is based on the Mutual Agreement to End Tenancy. He said he is not willing to grant extra time as the tenant has had extensions already. He requests an Order of Possession effective two days from service.

The landlord also requests a Monetary Order for unpaid rent for July. The tenant first contended it had been paid by the Public Trustee but then said that the Trustee was awaiting the outcome of this hearing so rent had not been paid for July. The landlord requests to retain the security deposit in trust to possibly claim against it for damages. He said he is aware of the provisions of section 38 of the Act.

The tenant said that he was not requesting any money in his Application but only the extension of time to move out.

In evidence is the Mutual Agreement to End Tenancy, and many emails between the parties.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. The tenant freely signed a Mutual Agreement to End Tenancy so the tenancy legally ended on June 15, 2014 pursuant to section 44(1)(c) of the Act. Although the tenant requested a further extension, I find the landlord refused as the tenant has had several months to prepare to move. I dismiss the Application of the tenant. An Order of Possession is issued effective two days from service.

Monetary Order

Rent is due on the first of each month and the tenant agreed that rent for July had not been paid. I find that there is rental loss of \$1300 for July rent and the landlord is entitled to a monetary order for this amount. The landlord requests to retain the security deposit in trust and not to use it to offset the amount owing. The deposit remains in trust to be dealt with according to section 38 of the Act.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to recover filing fees paid for this application.

The application of the tenant is dismissed in its entirety without leave to reapply.

Calculation of Monetary Award:

Rent for July 2014	1300.00
Filing fee	50.00
Total Monetary Order to Landlord	1350.00

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: July 10, 2014

Residential Tenancy Branch

