



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, CNC

Introduction

This hearing was convened by way of conference call concerning applications filed by the landlord and by the tenant. The landlord has applied for an Order of Possession and a monetary order for unpaid rent or utilities and the tenant has applied for an order cancelling a notice to end tenancy for unpaid rent or utilities.

Both parties attended the hearing and gave affirmed testimony. The landlord also provided evidentiary material in advance of the hearing to the Residential Tenancy Branch and to the tenant.

All evidence and testimony provided has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

- Should the notice to end tenancy for unpaid rent be cancelled?
- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord testified that this month-to-month tenancy began on August 1, 2013 and the tenant still resides in the rental unit. Rent in the amount of \$520.00 per month is payable in advance on the 1st day of each month. A copy of the tenancy agreement has been provided. On July 29, 2013 the landlord collected a security deposit from the tenant in the amount of \$250.00 which is still held in trust by the landlord.

The landlord further testified that the tenant failed to pay rent when it was due for April, 2014. On May 2, 2014 the tenant paid the landlord \$160.00 for rent, but no rent has been paid for June or July.

On June 2, 2014 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit that day. A copy of the notice has been provided and it is dated June 2, 2014 and contains an expected date of vacancy of June 15, 2014. The notice states that the tenant failed to pay rent in the amount of \$1,400.00 that was due on June 1, 2014. Both pages of the 2-page form have been provided. The tenant has not paid any rent since the issuance of the notice, and testified that the tenant told the landlord he was looking for a job, but hasn't paid. The landlord testified that as at the time of issuance, the tenant owed the landlord \$520.00 for April, \$360.00 for May and \$520.00 for June, for a total of \$1,400.00, and now owes for July. Copies of receipts for rent received have been provided, but none for the months of the rental arrears.

The landlord requests an Order of Possession and a monetary order in the amount of \$1,920.00.

The tenant testified that he asked the landlord to fix moisture and mould issues.

The tenant further testified that he has always paid the rent but always in cash and the landlord refused to provide receipts. He stated that the receipts the landlord has provided as evidence were never given to him and were fabricated for this hearing.

He also testified that the landlord left him a note, although not provided for this hearing, asking the tenant to slide cash under the landlord's door, which he did. When asked why the tenant would pay rent for the month of July in cash knowing he wouldn't get a receipt and after having been served with a notice to end tenancy, the tenant replied that he didn't want any confrontation with the landlord.

The tenant also testified that he intends to move out, but seeks an order cancelling the notice to end tenancy.

Analysis

I have reviewed the evidence, and having heard from the parties, I am not satisfied that the tenant has provided sufficient evidence that rent has been paid and that the notice to end tenancy should be cancelled. The tenant was well aware that the landlord had issued the notice to end tenancy but the tenant testified that he paid the rent for July in cash anyway and slid it under the landlord's door. He also testified that the landlord asked him to do that in a note but didn't provide a copy of the note. The landlord denies that any was received and has provided receipts for rent that was paid.

I have reviewed the notice to end tenancy given by the landlord, and I find that it is in the approved form and contains information required by the *Residential Tenancy Act*,

including the effective date of vacancy. I also find that it contains information that is consistent with the testimony provided by the landlord. The *Act* states that if the rent is not paid, the landlord is entitled to an Order of Possession. I find that the landlord has established that rent in the amount of \$1,400.00 for the months of April, May and June, 2014 was due and owing to the landlord at the time that the notice to end tenancy was issued, and that no rent has been collected since the issuance of the notice to end tenancy. I also find that the landlord is entitled to rent for the month of July. Since the landlord has been successful, the landlord is also entitled to recovery of the \$50.00 filing fee for the cost of the application.

Since the tenant has not paid the rent and has not moved out of the rental unit by the effective date of the notice to end tenancy, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

The tenant's application is hereby dismissed.

I leave it to the parties to deal with the security deposit pursuant to Section 38 of the *Residential Tenancy Act*.

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 landlord on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,970.00.

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: July 10, 2014

Residential Tenancy Branch

