



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Columbia Property Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord's representative and the tenant called in and participated in the hearing.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on July 1, 2013. The rent is \$1,300.00 due in advance on the first day of each month. The tenant paid a security deposit of \$650.00 and a pet deposit of \$650.00 at the start of the tenancy. The tenant did not pay rent for June when it was due. The tenant's cheque in payment of June rent was dishonoured and returned to the landlord marked "NSF". On June 5, 2014 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. After she received the Notice to End Tenancy the tenant gave the landlord a second cheque in payment of June rent, but it too was returned: "NSF". The tenant did pay rent for June and July by instalments, but the rent for August remains unpaid. The landlord's representative testified that there is a \$2.00 amount outstanding from July, a \$25.00 late fee and two \$25.00 NSF charges in addition to the rent for August. The current amount that is owed by the tenant is the sum of \$1,377.00.

The landlord has agreed that if, on or before September 1, 2014, the tenant pays the outstanding amount plus the \$50.00 filing fee for this application and the rent due for September, the landlord is prepared to allow the tenancy to continue. The landlord

requested an order for possession to be effective September 2nd in the event that the tenant fails to pay the outstanding amount plus September's rent by September 1st.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. The tenant's rent payments were not made within five days and there are still outstanding arrears; the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice and her rent payments have been accepted for use and occupancy only. The landlord has offered to continue the tenancy, but only on condition that the full amount due is paid by September 1st.

Conclusion

I find that the landlord is entitled to an order of possession effective September 2, 2014 after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$1,377.00 for the outstanding rent for August, including a late fee and NSF charges. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,427.00 and I grant the landlord an order under section 67 in the said amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: August 19, 2014

Residential Tenancy Branch

