



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, CNR, MNR, ERP, RP, RR, DRI, FF*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notice to end tenancy and for an order directing the landlord to carry out emergency repairs and reduce rent. The tenant also applied to dispute a rent increase and for the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession and a monetary order for unpaid rent and the filing fee? Is the tenant entitled to the remedies that he has applied for?

Background and Evidence

The tenancy started 11 years ago. There is no written tenancy agreement. The monthly rent was set at \$1,100.00 per month. The tenant did not pay a security deposit. The monthly rent continues to be \$1,100.00 due on the first of each month and therefore the tenant's application to dispute a rent increase is moot.

The landlord testified that the tenant was short on rent for months of May and June 2014 in the total amount of \$200.00. On July 01, 2014, the tenant failed to pay rent and on July 14, 2014, the landlord served the tenant with a notice to end tenancy for \$1,300.00 in unpaid rent. The tenant disputed the notice but did not pay rent and continues to occupy the rental unit. At the time of the hearing the tenant also owed rent for August and September 2014 for a total of \$3,500.00 in unpaid rent.

The tenant stated that the landlord agreed to lower the rent by \$100.00 per month due to a flooding in the basement of the home. The landlord denied this and the tenant did not have any written agreement to support his testimony. The tenant agreed that he owed rent for August and September 2014.

Analysis

Landlord's application

The tenant received the notice to end tenancy for unpaid rent, on July 14, 2014 and did not pay rent within five days of receiving the notice to end tenancy, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$3,500.00 for unpaid rent and \$50.00 for the filing fee for a total of \$3,550.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Tenant's application

Since the tenancy is coming to an end the tenant's application for an order directing the landlord to carry out repairs and to reduce rent is moot. The tenant has not proven his case and therefore must bear the cost of filing his application.

Conclusion

I grant the landlord an order of possession effective **two days after service** on the tenant. I also grant the landlord a monetary order in the amount of **\$3,550.00**. The tenant's application is dismissed in its entirety.

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: September 18, 2014
Amended: September 18, 2014

Residential Tenancy Branch

