



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPB, MNR, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an order of possession for unpaid rent or utilities and for breach of an agreement; for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing accompanied by a friend who assisted by interpreting the proceedings. However, despite being served with the Landlord's Application for Dispute Resolution, notice of hearing and evidentiary material by registered mail on August 23, 2014, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participants who attended the call were the landlord and the landlord's interpreter. The landlord testified that the tenant was served on that date and in that manner and has provided a copy of the Canada Post receipt and tracking document, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

The landlord provided evidentiary material in advance of the hearing and gave affirmed testimony. The interpreter was affirmed to well and truly interpret the proceedings from the landlord's native language to the English language and from the English language to the landlord's native language to the best of his ability.

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

Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an order of possession for unpaid rent or for breach of an agreement?

- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for loss of revenue?

Background and Evidence

The landlord testified that this month-to-month tenancy began on October 3, 2012 and the tenant still resides in the rental unit. Rent in the amount of \$950.00 per month is payable in advance on the 1st day of each month. A copy of the tenancy agreement has been provided which confirms that information, however it is signed by the landlord and tenant and dated March 01, 2014. The landlord testified that the parties signed the new tenancy agreement well into the tenancy. The tenancy agreement also specifies that a security deposit in the amount of \$500.00 is to be paid, but the landlord testified that the tenant didn't pay it; no security deposit or pet damage deposit were ever collected.

The tenant paid rent in full for the month of June, 2014 on June 19, 2014, however no rent has been collected since. The landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on August 8, 2014 by personally handing it to the tenant that day. A copy of both pages of the 2-page notice has been provided, and it is dated August 8, 2014 and contains an expected date of vacancy of August 8, 2014. The notice states that the tenant failed to pay rent in the amount of \$1,900.00 that was due on July 1, 2014. The landlord testified that as of the date of issuance, the tenant was in arrears that amount. The tenant has not served the landlord with an application for dispute resolution disputing the notice, and the landlord requests an order of possession.

The landlord also claims unpaid rent for July, August, September and October, 2014 for a total claim of \$3,800.00. When asked if the landlord would be re-renting the rental unit, the landlord replied in the affirmative.

Analysis

The *Residential Tenancy Act* states that once a tenant is served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent in full or dispute the notice. If the tenant does neither, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, which must be no less than 10 days after service. In this case, the notice does not give the tenant 10 days notice to move out of the rental unit, however the *Act* also states that incorrect

effective dates contained in such a notice are changed to the nearest date that complies with the *Act*, which I find is August 18, 2014. I accept the testimony of the landlord that the tenant was served on August 8, 2014, has not paid any rent, and has not served the landlord with an application for dispute resolution. In the circumstances I find that the landlord is entitled to an order of possession.

With respect to the monetary order, I am satisfied that the landlord has not received any rent since June, 2014, and the landlord has established a monetary claim for unpaid rent for July, August and September, 2014. The landlord testified that once the tenant has moved out, the landlord will be re-renting the rental unit. The landlord is required under the *Act* to do whatever is reasonable to mitigate any loss of revenue, and I find that the landlord is entitled to half a month's rent for October, 2014.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective 2 days after service.

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 \$3,375.00.

This order is 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: October 01, 2014

Residential Tenancy Branch

