



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, MNSD, MNDC, FF, CNC, CNR, OLC

Introduction

This hearing dealt with two related applications. One was the landlord's application for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The other was the tenant's application for orders setting aside a 10 Day Notice to End Tenancy for Non-Payment of Rent, setting aside a 1 Month Notice to End Tenancy for Cause, and compelling the landlord to comply with the Act, regulation or tenancy agreement. Although the tenant was an applicant and had been served with the landlord's Application for Dispute Resolution and Notice of Hearing by registered mail actually received on December 27 the tenant did not appear.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, on what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?

Background and Evidence

This six month fixed term tenancy commenced August 28, 2014.. There is a written tenancy agreement. The agreement provided that at the end of the term the tenant must vacate the rental unit.

The monthly rent of \$1400.00 is due on the first day of the month. The tenant paid a security deposit of \$700.00. The tenant provided the landlord with six post-dated cheques for the rent.

The rent did not include utilities, most particularly hydro. The agreement was that the tenant would pay the landlord \$200.00 a month towards the utilities and that every quarter or so the meter would be read and the necessary adjustments made. The meter reading was recorded at the start of the tenant on the move-in condition inspection report and the tenant provided the landlord with post-dated cheques in the amount of \$200.00 to be cashed in October, November and December.

The tenant was consistently late in the payment for rent and did not always pay the full amount on the first day of the month. His December rent cheque was returned by his bank marked "NSF".

On December 12 the landlord issued and posted a 10 Day Notice to End Tenancy for Non-Payment of Rent on the door of the rental unit. Later that same day the landlord attended at the local office of the Residential Tenancy Branch for advice. When she discovered that she had completed the notice incorrectly she issued a new notice, also dated December 12, and posted it on the door of the rental unit.

After his cheque was returned the tenant did not offer the landlord any payment for the December rent. When the landlord attempted to cash the December cheque for the utilities she was advised that there was not enough money in the tenant's account to clear the cheque.

The landlord testified that as December 12 the arrears of rent totalled \$2200.00.

The landlord testified that of the three cheques given to her by the tenant for utilities only the October cheque has cleared the bank.

She also testified that she did a meter reading on January 5, 2015. She provided that reading and the initial reading to B C Hydro who advised her that the cost of electricity for that period was \$997.28. She claims the balance of \$797.28 from the tenant.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The tenant was properly served with a valid 10 Day Notice to End Tenancy for Non-Payment of Rent, there were arrears of rent and the tenant did not pay the arrears within five days of being served with the notice to end tenancy. Based on the above facts I find that the landlord is entitled to an order of possession effective two days after service on the tenant.

I find that the landlord has established a total monetary claim of \$ 4447.28 comprised of arrears of rent to December 31, 2014,, in the amount of \$2200.00; unpaid rent for January in the amount of \$1400.00; unpaid hydro in the amount of \$797.28; and the \$50.00 fee paid by the landlord for this application; and I grant the Landlord an order under section 67 in this amount.

At the specific request of the landlord I am not making any order with regard to the security deposit.

Conclusion

- a. An order of possession effective two days after service on the tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$4417.50 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.
- c. All claims by the tenant are dismissed.

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: January 15, 2015

Residential Tenancy Branch

