



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, 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 and 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 and the tenant attended the hearing and each gave affirmed testimony. The landlord also called one witness who gave affirmed testimony. The parties were given the opportunity to cross examine each other on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

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

At the outset of the hearing the tenant advised that English is not his first language and requested that I provide an interpreter. The landlord stated that the tenant speaks English quite well and adjourning the proceedings will only serve to delay the outcome of the dispute. The tenant was advised that if he needed an interpreter, the onus is on the tenant to provide one, and the matter proceeded in the absence of any interpreter. The tenant spoke well in English and I found that the tenant was not prejudiced by limited ability to understand what was said or to communicate his defence to the landlord's application.

Issue(s) to be Decided

- 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 June 1, 2014 and the tenant still resides in the rental unit. Rent in the amount of \$500.00 per month is payable in advance on the 1st day of each month. A copy of the tenancy agreement has been provided which shows the tenant was required to pay a security deposit in the amount of \$250.00, however the landlord testified that the tenant has only paid \$50.00.

The landlord further testified that the tenant failed to pay any rent for the month of December, 2014 and the landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on December 31, 2014. A copy of the notice has been provided and it is dated December 31, 2014 and contains an expected date of vacancy of January 9, 2015 for unpaid rent in the amount of \$500.00 that was due on December 1, 2014. The landlord testified that the tenant has promised to pay, but no rent has been paid since the issuance of the notice and the tenant has fallen further into arrears by not paying any rent for January, 2015.

The tenant has not served the landlord with an application for dispute resolution disputing the notice issued by the landlord. The landlord seeks an Order of Possession and a monetary order in the amount of \$1,000.00 for unpaid rent as well as loss of revenue for February, 2015.

The landlord's witness testified that he was present and witnessed the landlord serve the tenant personally with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on December 31, 2014.

The tenant testified that he is ill and has not been working. He asks for more time to come up with the money.

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 dispute the notice or pay the rent in full. 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, I have reviewed the notice and I find that it is in the approved form and contains information required by the *Act*. The tenant admits that he has not paid the rent and the effective date of vacancy contained in the notice has passed. I am also satisfied that the tenant has not disputed the notice, and therefore the landlord is entitled to an Order of Possession on 2 days notice to the tenant.

With respect to the monetary order, I am satisfied that the landlord has established that the tenant owes \$1,000.00 for unpaid rent for the months of December, 2014 and January, 2015. Due to the lateness in this month, I am also satisfied that the landlord will not be able to re-rent the rental unit for the month of February, 2015 and the landlord is entitled to a portion of February's rent, or \$250.00.

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

The landlord currently holds a \$50.00 security deposit which I order the landlord to keep in partial satisfaction of the claim, and I grant a monetary order in favour of the landlord for the difference in the amount of \$1,250.00.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further order the landlord to keep the \$50.00 security deposit and I 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 \$1,250.00.

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: January 29, 2015

Residential Tenancy Branch

