



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF, O
CNR, FF

Introduction

This hearing was convened by way of conference call concerning applications made by the landlords and by the tenant. The landlords have applied 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; for an order permitting the landlords to keep all or part of the pet damage deposit or security deposit and to recover the filing fee from the tenant for the cost of the application. The tenant has applied for an order cancelling a notice to end tenancy for unpaid rent or utilities and to recover the filing fee from the landlords.

The tenant and both landlords attended the hearing, and the tenant and one of the landlords 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.

Issue(s) to be Decided

- Have the landlords established that the notice to end the tenancy was issued in accordance with the *Residential Tenancy Act*?
- Should the notice ending the tenancy for unpaid rent or utilities be cancelled?
- Have the landlords established a monetary claim as against the tenants for unpaid rent or utilities?
- Have the landlords 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 <<<<?

- Should the landlords be permitted to keep all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord testified that this month-to-month tenancy began on May 1, 2014 and the tenant still resides in the rental unit. Rent in the amount of \$1,495.00 per month is payable in advance on the 1st day of each month. On or about March 10, 2014 the landlords collected a security deposit from the tenant in the amount of \$748.00 which is still held in trust by the landlords, and no pet damage deposit was collected.

The landlord further testified that on December 1, 2014 the tenant paid rent in the amount of \$1,345.00 by cheque. On December 2, 2014 the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities for the balance of \$150.00. The parties had also had a previous hearing before the Residential Tenancy Branch wherein the landlords were ordered to pay \$722.67 to the tenant, and the difference between a month of rent and that amount ordered is \$772.33. On December 3, 2014 the tenant called the landlords stating that she had received the notice but not the landlords' cheque; that she had stopped payment on the rent cheque; and was going to send a new cheque for \$772.33 for the difference.

Upon hearing that the tenant hadn't received the landlords' cheque, the landlords called police and the bank and were told that the landlords had to stop payment on it, so they did. Multiple messages were left for the tenant to call the landlords, but without success, until the landlords had stopped payment.

On December 10, 2014 the landlords received a cheque in the amount of \$772.33 from the tenant with a note asking to confirm that the notice to end the tenancy was cancelled. The landlords agreed, however on December 10, 2014 the landlord noticed that the bank statement showed that the tenant's cheque had been returned for insufficient funds.

The landlords issued another notice to end the tenancy and have provided a copy for this hearing. The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities is dated December 11, 2014 and contains an expected date of vacancy of December 23, 2014 for unpaid rent in the amount of \$772.33 that was due on December 1, 2014.

The landlords have received a cheque from the tenant in the amount of \$650.00 dated January 1, 2015 which the landlords have deposited into their account, but have not given a receipt. No other rent has been paid.

The landlords seek an Order of Possession, the unpaid rent for December, 2014 in the amount of \$772.33, the balance of rent due for January, 2015 in the amount of \$845.00, \$1,450.00 for loss of revenue for the month of February, 2015, \$200.00 for cleaning expenses which was awarded at arbitration previously and the landlords feel should be reciprocated, and recovery of the filing fee.

The tenant testified that ever since moving in, the stay has been very unpleasant due to the landlords harassing the tenant with phone calls and constant notices. The tenant testified that it is never ending, discriminating and very personal. The tenant is currently trying to find another place to live.

Analysis

I have reviewed the notice to end the tenancy and I find that it is in the approved form and contains information required by the Act. I also find that the tenant is currently in arrears the sum of \$772.33 for December's rent and \$845.00 for February's rent. I cannot find in the circumstances that the tenant has any defense to not paying the rent, and the landlords are entitled to an Order of Possession on 2 days notice to the tenant. The tenant's application for an order cancelling the notice is hereby dismissed.

I further find that the landlords have established a monetary claim for December, 2014 and January, 2015 rent, however, I am not satisfied that the landlords will not be able to re-rent the rental unit or when, and the landlords' application for loss of revenue is dismissed.

The *Residential Tenancy Act* requires a tenant to leave a rental unit reasonably clean and undamaged except for normal wear and tear at the end of a tenancy. A landlord may want a rental unit to be more pristine than left by a tenant for future prospective tenants, but that is not the responsibility of the out-going tenant; it is the responsibility of the landlord. Further, the tenancy has not yet ended, and therefore, the landlords' application for \$200.00 for cleaning is hereby dismissed.

Since the landlords have been successful with the application, the landlords are also entitled to recovery of the \$50.00 filing fee.

I order the landlords to keep the \$748.00 security deposit and I grant the landlords a monetary order for the balance of \$919.33.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed.

I hereby grant an Order of Possession in favour of the landlords on 2 days notice to the tenant.

I further order the landlords to keep the \$748.00 security deposit, and I grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$919.33.

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 16, 2015

Residential Tenancy Branch

