



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for unpaid rent pursuant to section 46;
- b) A monetary order to compensate the tenant for the cost of repairs and the problems associated with an infestation of cockroaches; and
- c) To recover the filing fee for this application.

This hearing also dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- d) An Order of Possession pursuant to sections 46 and 55;
- e) A Monetary Order for rental arrears and loss;
- f) To retain the security deposit to offset the amount owing; and
- g) To recover filing fees for this application.

Service:

The Notice to End Tenancy is dated January 19, 2015 to be effective January 31, 2015 and the landlord gave sworn testimony that it was served by posting it on the tenant's door. The tenant filed an Application on February 2, 2015 to dispute the Notice and his hearing date is today, the same as the landlord; the landlord said he received a copy but the tenant did not attend this hearing. The landlord provided evidence that their Application filed on February 3, 2015 was served on the tenant by registered mail. It was verified online that it was available for pickup by the tenant but after notifications were left, it was being returned to the landlord on February 11, 2015. I find the landlord's documents were legally served for the purposes of this hearing and the tenant is deemed to be served with the Application/Notice of Hearing.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is unpaid rent or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession and a monetary order for rental arrears and loss?

Has the tenant proved on the balance of probabilities that they are entitled to compensation for repairs or problems (cockroach infestation) caused by the landlord's act or neglect? Are they entitled to recover filing fees for this application?

Background and Evidence

The tenants did not attend but are deemed to be served with the landlord's Application/Notice of Hearing. In any case, this is the date and time of the tenants' hearing also so I find they had notice of the hearing. The landlord attended and was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in July 15, 2014 on a fixed term lease to expire on August 1, 2015. Rent is \$920 a month plus \$15 parking fee and a security deposit of \$460 was paid July 11, 2014. The landlord served a Notice to End Tenancy for unpaid rent. \$940 was owed as of January 1, 2015.

The landlord said the tenants are still in residence and rent and parking fees are owed for each of January and February 2015 plus \$10 late fee for each of November and, December 2014 and January and February 2015. The total owed is \$2010. The landlord provided a rental ledger accounting for these amounts and a lease which shows in paragraph 10 the \$10 late fee.

The tenant submitted in his application that there was a cockroach infestation and his room mate abandoned the unit because of this. He wrote that he had lost furniture and had to do plumbing and electrical repairs at his own cost. No documentary evidence supporting these claims was submitted by the tenant.

Included with the evidence is the Notice to End Tenancy, a rent ledger, the tenancy agreement, and registration receipts.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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Analysis:

The onus is on the landlord as applicant to prove on a balance of probabilities that there are rental arrears and they have cause to evict the tenant. I find there are rental arrears and loss totalling \$2010 which represents \$920 rent a month plus \$15 parking fee for each of January and February 2015 plus late fees from November 2014 to February 2015. I find the landlord's evidence well supported by the lease and rental ledger submitted. I find the landlord entitled to an Order of Possession effective two days from service and a Monetary Order for \$2010 plus filing fee. I find him entitled to retain the security deposit to offset the amount owing.

The onus is on the tenant as the applicant on their file to prove their claim on a balance of probabilities. The tenant did not attend the hearing to provide oral evidence and did not submit documentary evidence to support his claim of a cockroach infestation and his cost of repairs. I dismiss the application of the tenant in its entirety. I find the tenancy is terminated on January 31, 2015 and the landlord is entitled to an Order of Possession effective two days from service.

Conclusion:

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed without recovery of the filing fee. The tenancy is at an end.

I find the landlord entitled to an Order of Possession is issued to the landlord effective two days from service and to a monetary order as calculated below. I find the landlord entitled to retain the security deposit to offset the amount owing and to recover filing fees for this application.

Rental arrears/loss plus parking and late fees	2010.00
Filing fee	50.00
Less security deposit (no interest 2014-15)	-460.00
Total Monetary Order to Landlord	1600.00

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: February 18, 2015

Residential Tenancy Branch

