



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The landlord's agent, MD ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses. The landlord confirmed that she is the daughter of the landlord, SNR, named in this application and that she had authority to represent him as an agent at this hearing. The landlord provided a written authorization letter to this effect, with the landlord's application.

The tenant confirmed that she received the landlord's 10 Day Notice to End Tenancy for Unpaid Rent, dated January 24, 2015 ("10 Day Notice"), by way of posting to her rental unit door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 10 Day Notice.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package ("Application") on February 13, 2015, by way of registered mail. The tenant confirmed receipt of the landlord's Application. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's Application.

Issues to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

Both parties agreed that this tenancy began on April 1, 2001 and the tenant continues to reside in the rental unit. The tenant indicated that rent was \$2,100.00 under the original tenancy agreement and that she was given legal notices of rent increase throughout the tenancy, raising the rent to its current amount of \$2,150.00. The landlord stated that monthly rent in the amount of \$2,200.00 is payable on the first day of each month. The tenant indicated that rent was \$2,150.00, but she was paying \$2,200.00 monthly since November 2014, to assist the landlord with paying interest charges on his credit line due to the tenant's late rent payments. Both parties agreed that a security deposit of \$1,000.00 and a pet damage deposit of \$1,000.00 were paid by the tenant and the landlord continues to retain these deposits. A written tenancy agreement governs this tenancy but neither party provided a copy for this hearing.

The 10 Day Notice states that \$2,150.00 in rent was due on November 1, 2014. It also notes that the total rent owing was \$5,275.00 at that time. The landlord testified that rent of \$2,200.00 for each month from November 2014 to March 2015, inclusive, totalled \$11,000.00. Both parties agreed that the tenant made payments totalling \$1,325.00 towards this amount and the current balance owing for rent is \$9,675.00.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that the landlord will accept a reduced amount of \$9,000.00, in lieu of \$9,675.00, for unpaid rent from November 2014 to March 2015, inclusive.
2. The tenant agreed to pay the landlord \$5,000.00 by March 5, 2015, and a further \$4,000.00 by April 15, 2015 for unpaid rent from November 2014 to March 2015, inclusive.
 - a. Both parties agreed that this tenancy will continue in the event that the tenant abides by the monetary terms of condition #2, as outlined above.
3. Both parties agreed that rent as of April 1, 2015, reverts back to \$2,150.00 per month, for the remainder of this tenancy, unless and until it is legally changed in accordance with the *Act*;
4. Both parties agreed that the tenant will pay the landlord rent for this tenancy, according to the following schedule:
 - a. \$2,150.00 for April 2015 rent by May 15, 2015;
 - b. \$2,150.00 for May 2015 rent by June 30, 2015;
 - c. \$2,150.00 for June 2015 rent by June 30, 2015;
 - d. \$2,150.00 for July 2015 rent by July 15, 2015; and
 - e. \$2,150.00 for August 2015 rent by August 1, 2015;
5. Monthly rent from August 2015 and for the remainder of this tenancy after August 2015, is due on the first day of each month, as per the tenancy agreement.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties gave verbal sworn affirmation at the hearing that they understood and agreed to the above terms as legal, final and binding, which settle all aspects of this dispute.

Conclusion

In order to implement the above settlement agreement and in the event that the tenant abides by the monetary terms of condition #2 of this settlement agreement, I find that the landlord's 10 Day Notice, dated January 24, 2015, is cancelled and no force or effect. In that event, this tenancy continues until it is ended in accordance with the *Act*. In order to implement the above settlement agreement and in the event that the tenant does not abide by the monetary terms of this settlement agreement, the landlord is at liberty to make an application for dispute resolution seeking an end to the tenancy and an Order of Possession based on a new 10 Day Notice for the amount owing at that time.

As advised to both parties during the hearing, in order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's

favour in the amount of \$9,000.00, the amount currently owing for this tenancy from November 2014 to March 2015, as per the above agreement conditions #1 and 2. **This monetary order cannot be served upon the tenant if the tenant has complied with condition #2** of the above-noted settlement agreement. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by condition #2 of the above monetary settlement **by April 15, 2015**.

Should the tenant fail to abide by condition #4 of the above monetary agreement, the landlord is at liberty to apply for a new monetary award in satisfaction of amounts that would then have become owing from this tenancy.

As this tenancy is currently continuing as per the above settlement agreement, the landlord's application for authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested is dismissed with leave to reapply.

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: March 09, 2015

Residential Tenancy Branch