



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 tenants for the cost of the application.

The landlord attended the hearing and gave affirmed testimony. Both tenants also attended, however only one of the 2 tenants testified. The parties were given the opportunity to question each other respecting the testimony and evidence 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

- 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 tenants for unpaid rent?
- Has the landlord established a monetary claim for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for recovery of the filing fee?

Background and Evidence

The landlord testified that this month-to-month tenancy began on July 1, 2014 and believes the tenants still reside in the rental unit. Rent in the amount of \$1,050.00 per month is payable in advance on the 1st day of each month. At the outset of the tenancy

the landlord collected a security deposit from the tenants in the amount of \$525.00 which is still held in trust by the landlord, and no pet damage deposit was collected.

The landlord further testified that the landlord collects rent by attending the rental unit. Rent for the month of February, 2015 was short by \$200.00. The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided. The notice is dated February 12, 2015 and contains an expected date of vacancy of February 28, 2015 for unpaid rent in the amount of \$200.00 that was due on February 2, 2015. The landlord testified that he personally handed the notice to one of the tenants on February 12, 2015.

The tenants have not paid the outstanding rent and have now fallen further into arrears and the landlord is owed \$1,050.00 for March, 2015 and \$200.00 for February, 2015. The landlord has not been served with an application for dispute resolution by either of the tenants disputing the notice.

The tenant testified that each of the tenants pays half of the rent and the other tenant takes it to the landlord. The tenant gave his half to the other tenant for February, 2015 and did not know that the landlord was shorted \$200.00 until he received the notice to end the tenancy. He called the landlord to tell him to pick up the money but the landlord told him it had already been paid.

The tenant further testified that the other tenant told him that rent for March, 2015 was taken to the landlord but the landlord refused it.

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 pay the rent in full or dispute the notice. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the rental unit by the vacancy date contained in the notice, which must be no less than 10 days after service. I have reviewed the notice and I find that it is in the approved form and contains information required by the *Act*. The tenants did not dispute that the notice was personally served on February 12, 2015, and I am satisfied that the tenants did not dispute the notice by February 17, 2015.

The parties disagree with respect to the payment of the outstanding rent. The landlord testified that the tenants have never attended the landlord's house to pay rent, and the tenant testified that the other tenant goes to the landlord's house to pay the rent, however a lot of the testimony provided by the tenant was hear-say which he says was

told to him by the other tenant. The other tenant attended the hearing but did not wish to testify, and therefore the testimony bears little weight. I do not accept the testimony of the tenant that he offered the outstanding rent to the landlord. I prefer the testimony of the landlord, which I find is reasonable and believable that rent is collected by the landlord attending at the rental unit, that the tenants did not pay the outstanding rent for February, 2015 and the landlord is now owed rent for March, 2015.

In the circumstances, I find that the landlord is entitled under the *Residential Tenancy Act* to an Order of Possession on 2 days notice to the tenants.

I further find that the landlord has established a monetary claim for unpaid rent in the amount of \$1,250.00.

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

The landlord has not applied to keep the security deposit, and I leave it to the parties to deal with it according to the *Residential Tenancy Act*.

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 tenants.

I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,300.00.

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: March 27, 2015

Residential Tenancy Branch

