



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was convened by way of conference call following a Decision of the director for a new hearing after considering an application by the tenant for a review of a Decision made on February 17, 2015.

On February 11, 2015 the landlords had applied for an Order of Possession and a monetary order by way of a Direct Request proceeding, without an oral hearing. The landlords were successful in obtaining the orders sought on February 17, 2015. The tenant was successful in obtaining a new hearing and an Order of the director dated March 3, 2015 suspended the previously made orders and ordered the tenant to serve notices of the time and date of this hearing and a copy of the Decision upon the landlord within 3 days of receipt. The director also ordered the landlords to serve the tenant with a copy of the application for dispute resolution and documentary evidence within 3 days of receipt of the notice of hearing and Decision from the tenant.

One of the named landlords attended the hearing and also represented the other named landlord. However, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord.

The landlord gave affirmed testimony, and testified that the landlords learned of the hearing after contacting the Residential Tenancy Branch, and were not served with the notice of this hearing by tenant until April 7, 2015 and were not served with a copy of the Decision.

Issue(s) to be Decided

The issues to be re-heard are:

- Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Have the landlords 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 July 15, 2014 and ended on April 7, 2015. Rent in the amount of \$775.00 per month was payable on the 1st day of each month, however the landlords reduced the rent to \$750.00 per month to help out the tenant because the tenant's roommate moved out. The landlord is not sure when rent was reduced. A copy of the tenancy agreement has been provided.

During the course of the tenancy the landlords collected a security deposit from the tenant in the amount of \$387.50 which is still held in trust by the landlords and no pet damage deposit was collected.

The landlord further testified that the tenant was late paying rent for the month of January, 2015, and paid the landlord \$500.00, leaving a balance due of \$250.00. The tenant further failed to pay any rent on February 1, 2015 and the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by taping it to the door of the rental unit on February 2, 2015 with a witness present. A copy of the notice has been provided and it is dated February 2, 2015 and contains an expected date of vacancy of February 12, 2015 for unpaid rent in the amount of \$750.00 that was due on February 1, 2015 and \$250.00 for January, 2015.

The tenant has paid no rent since the issuance of the notice and now rent for March and April remain unpaid. The tenant moved out of the rental unit on April 7, 2015 and left items, which the landlord believes is garbage, inside.

The landlord had received an Order of Possession on 2 days notice to the tenant after the Direct Request Proceeding and a monetary order as against the tenant for \$1,000.00, both of which have been suspended pending the outcome of this hearing. The landlord seeks a new monetary order to include unpaid rent for March, 2015 as well as for loss of revenue for April, 2015.

The tenant has not served the landlord with an application for dispute resolution by the tenant disputing the notice.

Analysis

The *Residential Tenancy Act* states that following a hearing ordered upon a party's successful application for a review, I may confirm, vary or set aside any orders or Decisions made originally.

The tenant did not attend the hearing, and therefore, I find that the tenant has no dispute to the landlords' original application.

I am satisfied in the evidence before me that the tenant failed to pay rent in full for January, 2015 and paid no rent for February, 2015, leaving a balance of \$1,000.00 owed to the landlords for rent. I am also satisfied that the tenant did not dispute the notice to end the tenancy and is therefore conclusively presumed to have accepted the end of the tenancy, and I find no reason to vary or set aside the Order of Possession issued on February 17, 2015, and I hereby confirm it.

Since the issuance of the original Decision and orders, I am satisfied in the evidence that the tenant continued to reside in the rental unit without paying any rent until April 7, 2015. Certainly the landlord is entitled to an additional \$750.00 for rent for March, 2015. With respect to the landlord's claim for April's rent, the landlord has not satisfied me that it will not be possible to re-rent the rental unit effective April 15, 2015 and I grant the landlord a monetary order for half a month's rent, or \$375.00.

I hereby set aside the monetary order made by the director on February 17, 2015, and I grant a monetary order in favour of the landlords as against the tenant in the amount of \$2,125.00.

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

I leave it to the parties to deal with the security deposit in accordance with the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, I hereby confirm the Order of Possession made by the director on February 17, 2015.

I hereby set aside the monetary order made by the director on February 17, 2015.

I hereby 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 \$2,175.00.

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: April 09, 2015

Residential Tenancy Branch

