



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, CNR, MNR, MNDC, MNSD, OLC, FF*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit.

The tenant applied for an order to cancel the notice to end tenancy, for a monetary order for compensation for the loss of quiet enjoyment and for an order directing the landlord to comply with the *Act*.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

RTB Rules of Procedure 2.3 states that if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply. In this regard I find the tenant has applied for an order for the landlord to comply with the *Act* and for a monetary order for compensation. As these sections of the tenant's application are unrelated to the main section which is to cancel the ten day notice to end tenancy, I dismiss these sections of the tenants claim with leave to reapply.

Accordingly this hearing only dealt with the tenant's application to set aside the notice to end tenancy and the landlord's application for an order of possession and a monetary order.

Issues to be decided

Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside? Is the landlord entitled to a monetary order for unpaid rent and the filing fee?

Background and Evidence

The tenancy started on September 25, 2014. The rent is \$725.00 per month due on the first day of each month. The tenant paid a security deposit of \$375.00. There is no written tenancy agreement.

On February 15, 2015, the landlord served the tenant with a notice to end tenancy for \$1,500.00 in unpaid rent. The tenant did not dispute the notice in a timely manner. She stated that she paid rent every month in cash and did not receive a receipt.

I drew the tenant's attention to the fact that on February 15, 2015, she had received a notice to end tenancy for unpaid rent for January and February 2015. Since she had no way of proving she had paid rent, she could have paid the subsequent rents by cheque or money order. The tenant maintained that she paid rent for all months from January to May in cash.

The landlord stated that the tenant owes rent for five months and has applied for a monetary order for unpaid rent and for an order of possession effective two days after service on the tenant

Analysis

The tenant received the notice to end tenancy for unpaid rent, on February 15, 2015 and did not dispute the notice or pay rent within five days of receiving the notice to end tenancy, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$3,625.00 for unpaid rent and \$50.00 for the filing fee for a total of \$3,675.00. I order that the landlord retain the security deposit of \$375.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$3,300.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord may retain the security deposit.

I grant the landlord an order of possession effective **two days after service** on the tenant. I also grant the landlord a monetary order in the amount of **\$3,300.00**

The tenant's application is dismissed in its entirety.

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: May 07, 2015

Residential Tenancy Branch

