



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, MNSD, MND, OPB, MNR, MNSD, OLC, ERP, RP, PSF, RPP, LRE, 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 pursuant to a mutual agreement to end tenancy. The landlord also applied for a monetary order for unpaid rent and a charge incurred when the tenant denied access for repairs.

The tenant applied for the return of the security deposit, the cost of emergency repairs and for the filing fee. The tenant also applied for an order directing the landlord to comply with the *Act*, to carry out repairs, to provide services, return the tenant's property and set conditions on the landlord's right to enter the rental unit.

The landlord testified that she served the tenant with the notice of hearing package on April 02, 2015, by registered mail. The landlord filed proof of service. Despite having made application and having been served a notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Since the tenant did not attend the hearing, her application is dismissed. Accordingly this hearing only dealt with the landlord's application.

Issues to be decided

Is the landlord entitled to an order of possession and a monetary order for unpaid rent, a charge incurred when the tenant denied access for repairs and the filing fee?

Background and Evidence

The tenancy started on March 01, 2015. The monthly rent is \$4,000.00.00, payable on the first of each month. The tenant provided the landlord with postdated rent cheques.

The landlord testified that there was a problem with the boiler inside the rental unit that required immediate repairs. On March 30, 2015, the landlord served the tenant with a notice to enter the rental unit on April 01, 2015 for the purpose of repairs to the boiler. On March 31, 2015, the parties had a conversation by telephone and during that conversation both agreed to end the tenancy effective April 01, 2015 and the landlord agreed to return the rent paid for March 2015.

The tenant requested the landlord to cancel the appointment for repairs on April 01, 2015, to allow her to move out that day without interruption and the landlord did so. On April 01, 2015, as discussed and agreed to in a conversation on March 31, 2015, the parties signed a mutual agreement to end tenancy and the landlord wrote a cheque to the tenant for the return of rent for March 2015, in the amount of \$4,000.00. The landlord provided a copy of the agreement and documentary proof showing that rent for March 2015 was returned to the tenant.

However on April 01, 2015, the tenant did not move out and at the time of the hearing (May 13, 2015) was still in occupation of the rental unit. The landlord testified that she did not cash the rent cheques for April and May because she was waiting for the outcome of this hearing. In her application for dispute resolution, the tenant stated that she withheld rent for April due to the unsafe conditions in the home.

The landlord arranged for the boiler to be repaired on April 07, 2015. On April 02, 2015, the landlord served the tenant with a 24 hour notice to enter for this purpose. On April 07, 2015, the tenant did not allow the repair man and a safety inspector access. The landlord was charged \$257.25 for this visit and is claiming reimbursement of this amount from the tenant.

Analysis

Based on the undisputed testimony and documentary evidence of the landlord, I find that the parties entered into an agreement to end the tenancy effective April 01, 2015. Therefore, I find that the landlord is entitled to an order of possession and 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.

Since the tenant did not abide by the agreement and continues to occupy the rental unit, I find that the landlord is entitled to rent for the months of March, April and May 2015. In her application for dispute resolution, the tenant stated that she has withheld rent for April 2015. Therefore, I find that even though the landlord has a rent cheque for April, it will not be honored.

The landlord has a rent cheque for May 2015 and must deposit it into her account. If the rent cheque is returned then the landlord may make an application for a monetary order for unpaid rent.

Based on the above, I find that the landlord is entitled to rent for March and April 2015.

The landlord provided the tenant with a proper notice to enter the unit for the purpose of repairs. The tenant did not allow the repair personnel access and the landlord incurred a charge of \$257.25. I find that the tenant is responsible for this charge.

Since the landlord has proven her claim, I award her the recovery of the filing fee of \$100.00.

Overall the landlord has established a claim as follows:

1.	Unpaid rent for March and April 2015	\$8,000.00
2.	Charge for visit to repair boiler	\$257.25
3.	Filing fee	\$100.00
	Total	\$8,357.25

The landlord has established a claim of \$8,357.25. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. I grant the landlord a monetary order in the amount of **\$8,357.25**.

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 13, 2015

Residential Tenancy Branch

