



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

AMENDED DECISION

Dispute Codes OPR, MNR, MNDC, CNC, RP, FF

Introduction

This hearing dealt with an application by the tenant for an order setting aside notices to end this tenancy, a monetary order and an order compelling the landlord to perform repairs and a cross-application by the landlords for an order of possession and a monetary order. Despite having been served with the landlord's application for dispute resolution and notice of hearing sent via registered mail on June 16, 2015, the tenant did not participate in the conference call hearing.

As the tenant did not appear at the hearing to advance her claim, her claim is dismissed without leave to reapply.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on July 1, 2014 at which time the tenant paid a \$600.00 security deposit. Rent was set at \$1,200.00 per month, payable in advance on the first day of each month. The landlord personally served the tenant with a one month notice to end tenancy on May 29 and when the tenant did not pay rent on June 1, the landlord served on her a 10 day notice to end tenancy by posting that notice on her door. The tenant filed an application for dispute resolution to dispute the notices. As of the date of the hearing, the tenant had not paid any rent for June or July. I note that the landlord acknowledged having issued a receipt on May 29 for \$1,200.00, but the receipt is clearly marked as being applied to rent for May and the landlord testified that the receipt was issued for a direct deposit made at the beginning of May. The landlord acknowledged having received rent for July.

The landlord seeks an order of possession and a monetary order for unpaid rent for June, \$40.00 to compensate them for gasoline used to drive to the rental unit to serve the notices to end tenancy and recovery of the \$50.00 filing fee paid to bring their application.

Analysis

I accept the landlord's undisputed testimony. Although the tenant filed an application for dispute resolution to dispute the notices to end tenancy, she did not appear at the hearing to advance her claim and I find that this has the same effect as not having disputed the notices. I find that the tenant received the one month notice on May 29 and that she received the 10 day notice on June 11, 3 days after it was posted to her door. I find that she is conclusively presumed to have accepted that the tenancy ended on the effective date of the notices. The earliest effective date is June 21, which is the effective date of the 10 day notice to end tenancy for unpaid rent. I find that the landlord is entitled to an order of possession and I grant the landlord that order. The tenant must be served with the order and should she fail to vacate the unit in accordance with the order, the order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the tenant was contractually obligated to pay \$1,200.00 in rent for the month of June and I find that she failed to do so. I find that the landlord is entitled to recover the unpaid rent and I award the landlord \$1,200.00.

I dismiss the landlord's claim for the cost of gas. The landlord chose to reside in a different location from the rental unit and the tenant should not be responsible for costs associated with that decision.

As the landlord has been substantially successful in the claim, I find they should recover the filing fee and I award them \$50.00 for a total entitlement of \$1,250.00.

At the hearing, the landlord indicated that they were agreeable to applying the security deposit to the amount awarded. Section 72(2)(b) of the Act permits me to apply a security deposit to an award against a tenant and I find it appropriate to do so here. I order the landlord to retain the \$600.00 security deposit in partial satisfaction of the claim and I grant them a monetary order under section 67 for the balance of \$650.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenant's claim is dismissed without leave to reapply. The landlord is granted an order of possession and a monetary order for \$650.00.

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: July 21, 2015

Residential Tenancy Branch