



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on February 1, 2015. Rent of \$600.00 is payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$300.00 as

a security deposit. The Landlord receives the rent payments directly from a government ministry.

On July 31, 2015 the Landlord gave the Tenant, in person, a one month notice to end tenancy for cause with an effective date of September 1, 2015. The Tenant did not dispute the Notice and has not moved out of the unit. The Landlord received the full rent payments from the ministry for September and October 2015 but nothing for November 2015. The Landlord states that in September 2015 after receiving the rent from the ministry the Tenant asked for return of \$300.00 to find another unit so the Landlord gave the Tenant \$300.00. The Landlord claims \$300.00 as unpaid rent for September 2015. The Landlord also claims unpaid rent for November 2015.

Analysis

Section 47 of the Act provides that where a tenant is given a one month notice to end tenancy for cause and does not apply to dispute the notice then the tenant will be conclusively presumed to have accepted the end of the tenancy and must move out by the effective date of that notice.

Based on the Landlord's evidence that the Tenant was given the Notice, that the Tenant did not dispute the Notice and that the Tenant did not move out of the unit I find that the end of the tenancy is conclusively presumed and that the Landlord is entitled to an order of possession. I make this order of possession effective November 30, 2015.

As the Landlord did not receive the rent from the ministry or the tenant for November 2015 and considering that the Tenant is still residing in the unit I find that the Landlord is entitled to unpaid rent of **\$600.00** for November 2015. As the Landlord was paid rent for September 2015 from the ministry, I find that the Landlord's claim for the return of funds given to the Tenant is not based on the failure to pay rent and I dismiss the claim for September 2015 rental arrears.

As the Landlord's application has had merit I find that the Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$650.00**. Deducting the security deposit plus zero interest of **\$300.00** from the Landlord's entitlement leaves **\$350.00** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord effective 1:00 p.m. November 30, 2015.

I order that the Landlord retain the **security deposit** and interest of \$300.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$350.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: November 24, 2015

Residential Tenancy Branch

