



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, CNR, MNR, MNDC, AAT, RR, 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 tenant applied for an order to cancel the notice to end tenancy and for an order directing the landlord to allow the tenant access to the rental unit and to reduce rent. The tenant also applied for a monetary order for compensation in the amount of \$25,000.00. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

During the hearing the tenant stated that he was suffering from anxiety and a nervous breakdown and requested that his application for compensation be dismissed with leave to reapply. Since the tenant appeared to be distraught and unable to participate in the hearing, I allowed the tenant's request.

Issues to be decided

Is the landlord entitled to an order of possession and a monetary order for unpaid rent and the filing fee? Is the tenant entitled to the remedies that he has applied for?

Background and Evidence

The tenancy started in March 2014. The monthly rent is \$800.00 due on the first of each month. Prior to moving in, the tenant paid a security deposit of \$400.00.

The tenant failed to pay rent for October and on October 02, 2015; the landlord served the tenant with a ten day notice to end tenancy for nonpayment of rent. The tenant stated that \$400.00 was paid to the landlord at the end of October. The landlord agreed that the tenant owed \$400.00 for October.

The tenant continued to occupy the rental unit and failed to pay rent for November and December. At the time of the hearing the parties agreed that the tenant owed \$2,000.00 in unpaid rent.

Analysis

Landlord's application

The tenant received the notice to end tenancy for unpaid rent, on October 02, 2015 and did not 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 \$2,000.00 for unpaid rent and \$50.00 for the filing fee for a total of \$2,050.00. 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.

Tenant's application

Since the tenancy is coming to an end the tenant's application for an order directing the landlord to allow access to the rental unit and to reduce rent is moot.

Conclusion

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 **\$2,050.00**

The tenant's application for compensation is dismissed with leave to reapply. The balance of the tenant's application is dismissed.

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: December 08, 2015

Residential Tenancy Branch

