



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, OPB, MND, MNR, MNDC, FF, O
CNR, AAT, LAT, RR, FF

Introduction

This hearing was convened by way of conference call concerning applications made by the landlords and by the tenant. The landlords have applied for an Order of Possession for unpaid rent or utilities, for cause and for breach of an agreement; for a monetary order for damage to the unit, site or property; for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and for recovery of the filing fee for the cost of the application. The tenant has applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities; for an order that the landlords allow access to (or from) the unit or site for the tenant or the tenant's guests; for an order authorizing the tenant to change the locks to the rental unit; for an order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided; and for a monetary order for recovery of the filing fee from the landlords for the cost of the application.

Both landlords attended the hearing and each gave affirmed testimony. However, despite making an application for dispute resolution that was scheduled to be heard jointly with the landlords' application, no one for the tenant attended the hearing. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participants who joined the call were the landlords.

Since the tenant has not attended the conference call hearing, I dismiss the tenant's application in its entirety without leave to reapply.

During the course of the hearing, it was determined that the landlords made the application for a monetary order for damage to the unit, site or property prior to the tenancy ending and prior to determining the scope of the application, and I dismissed that portion of the landlords' claim with leave to reapply.

All testimony and the evidence of the landlords have been reviewed and are considered in this Decision.

Issue(s) to be Decided

The issues remaining to be decided are:

- Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Have the landlords established a monetary claim as against the tenant for unpaid rent?
- Have the landlords established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

The first landlord testified that this tenancy began on or about July 20, 2015 however the tenancy wasn't to begin until August 1, 2015. The tenant signed a tenancy agreement, but the landlords did not. The tenant has moved out of the rental unit, but has left some items behind having collected some on November 30 and again on December 6, 2015. Rent in the amount of \$2,000.00 per month was payable on the 1st day of each month. No security deposit or pet damage deposit were collected.

The landlord further testified that the tenant provided the landlords with post-dated cheques for rent, but all have been returned for insufficient funds, and no rent has been received by the landlords. The landlords' financial institution has not charged the landlords a fee for the dishonoured cheques.

The landlords served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the notice) by registered mail on October 8, 2015 and have provided a copy of a Canada Post cash register receipt bearing that date. A copy of the notice has also been provided and it is dated October 1, 2015 and contains an effective date of vacancy of October 17, 2015.

The landlords seek an Order of Possession and a monetary order in the amount of \$10,000.00 for unpaid rent for the months of August through December, 2015 as well as recovery of the \$50.00 filing fee.

Analysis

The *Residential Tenancy Act* states that once a tenant is served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant must pay the rent in full or dispute the notice within 5 days. In this case, the tenant disputed the notice but did not attend the hearing, and did not pay any rent. Therefore, I am satisfied that the tenant is

conclusively presumed to have accepted the end of the tenancy and the landlords are entitled to an Order of Possession. Since the tenant has moved most belongings out of the rental unit, I grant an immediate Order of Possession.

Considering the testimony of the landlords and in the absence of any evidence from the tenant, I am satisfied that the landlords have established a monetary claim for unpaid rent in the amount of \$10,000.00.

Since the landlords have been successful with the application, the landlords are also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

The landlords' application for a monetary order for damage to the unit, site or property is hereby dismissed with leave to reapply.

I hereby grant an immediate Order of Possession in favour of the landlords.

I further grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$10,050.00.

These orders are final and binding and may be enforced.

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 16, 2015

Residential Tenancy Branch

