



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, OPR, CNR, CNC, FF

Introduction

This hearing dealt with applications by both parties. The tenant AH applied for an order setting aside notices to end this tenancy and the landlord applied for a monetary order, an order of possession and an order permitting him to retain the security deposit. Both parties participated in the conference call hearing.

At the hearing, the landlord advised that he had made a mistake in his request for a monetary order and asked to amend his application. As the parties agreed on the amount of rent that was owing and as the amount of the new claim is less than what was originally claimed, I allowed the amendment.

Issues to be Decided

Should the notices to end tenancy be set aside?
Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that in September, 2015, the tenants approached the landlord asking to rent the residential property, a home which contained 2 separate suites. The landlord signed documents for the tenants to submit to the government agency which subsidizes their rent and the parties signed a tenancy agreement which listed both parties as tenants, did not distinguish between the two suites and listed \$2,100.00 as the rental price for the entire residential property. The landlord testified that it was his intention to rent the entire house to the tenants and while he accepted rent separately from each of them, he had specifically rented the entire property to both parties as he did not wish to have 2 separate tenancies therein.

The parties agreed that in November the tenants failed to pay \$475.00 of their rent, in December they failed to pay \$950.00 of their rent and in January they failed to pay

\$1,600.00 of their rent. The parties agreed that in November and December, AM paid her share of the rent but AH did not. They further agreed that AM made a partial payment in January and AH paid no money whatsoever in that month.

The parties agreed that on November 2, the landlord served on the tenants a one month notice to end tenancy for cause and a 10 day notice to end tenancy for unpaid rent.

The tenant AH argued that she has a separate tenancy from the tenant AM and claimed that AM and the landlord were colluding to evict her so the landlord could continue a tenancy with AM. The landlord acknowledged that he intends to end the co-tenancy and begin a new tenancy with AM alone. AH argued that she did not pay her rent because the landlord wanted to evict her and she intended to vacate the unit in November.

Analysis

I find that the tenants are co-tenants, in one tenancy agreement with the landlord and that they are jointly responsible to pay the landlord \$2,100.00 per month in rent. The tenants acknowledged that at the time the notice to end tenancy was served in November, they owed rent to the landlord. I do not accept AH's argument that she should not be evicted because the landlord wants to evict her. Her own testimony shows that she did not meet her obligations under the contract and therefore gave the landlord grounds to end her tenancy. I find that the landlord has grounds to end this tenancy on the basis of unpaid rent and I find that the landlord is entitled to an order of possession. I grant the landlord an order of possession which will be effective 2 days after service on the tenants. Should the tenants fail to comply with the order, the landlord may file the order in the Supreme Court and enforce it as an order of that Court. I dismiss AH's claim for an order setting aside this notice to end tenancy. As the tenancy is ending, I find it unnecessary to address the question of whether the one month notice to end tenancy is valid. AH's claim is dismissed in its entirety.

The tenants acknowledged that they failed to pay \$475.00 of their rent in November, \$950.00 of their rent in December and in January they failed to pay \$1,600.00 of their rent. I find that the tenants were contractually obligated to pay these monies to the landlord and I find that he is entitled to recover these monies from the tenants. I award the landlord \$3,025.00. As the landlord has been successful in his application I find he should recover the filing fee paid to bring his claim and I award him \$50.00 for a total entitlement of \$2,025.00.

The landlord applied to apply the \$1,050.00 security deposit to the award. I order the landlord to retain the security deposit in partial satisfaction of his claim and I grant him a

monetary order under section 67 for the balance of \$2,025.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$2,025.00.

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: January 11, 2016

Residential Tenancy Branch

