



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR RR MNDC MNSD FF

Introduction:

This was a cross application by both landlord and tenant. However the tenant did not attend the hearing. The landlord gave sworn testimony that he served the Notice to End Tenancy dated December 11, 2015 to be effective December 21, 2015 and his Application for Dispute Resolution by registered mail. It was verified online as successfully delivered. The landlord requests pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent and rental loss;
- b) An Order of Possession pursuant to sections 46 and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

The tenant applied pursuant to the *Residential Tenancy Act* (the Act) to cancel the Notice to End Tenancy for unpaid rent; and for a monetary order or rent rebate as compensation for repairs to the property; and repairs not done.

Preliminary Issue:

The landlord had put on his Application the shortened first name of the respondent female tenant whereas the tenant had used her full name on their Application. The landlord said the shortened form was the correct form according to the lease she signed. This was verified by the lease in evidence so no change to the names on the landlord's Application was made.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that rent is owed and they are entitled to an Order of Possession and a monetary order for rental arrears and to recover the filing fee for this application?

Or is the tenant entitled to any relief?

Background and Evidence:

Only the landlord attended although the tenant was served with the Application and this was also the time of their Application to be heard. The landlord was given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in February 1, 2014, that rent is \$975 a month and a security deposit of \$488 was paid. It is undisputed that the tenant has not paid all of their rent for many months. According to the rent ledger in evidence, \$4720 was owed as of December 31, 2014 and \$13,095 was owed as of December 2015. The landlord said the tenant has paid no rent for January or February 2016 also, resulting in a further \$1950 being owed in rental loss. He requests an Order of Possession as soon as possible and a monetary order for rental arrears and rental loss as they remain in possession after the tenancy was terminated by the Notice on December 21, 2015.

The tenant in their Application did not dispute the amount of rent owing but they claimed \$600 for they said they paid for a toilet repair and the tub and dryer were broken. They provided no documents to support their claim and did not attend to give oral evidence.

In evidence is the Notice to End Tenancy for unpaid rent, the tenancy agreement, the rental ledger and registered mail receipts. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

Order of Possession:

I find the landlord has satisfied the onus of proving there is unpaid rent and he is entitled to an Order of Possession. Although the tenant disputed the Notice to End Tenancy in time, I find there are no valid reasons to cancel the Notice to End Tenancy which was issued pursuant to section 46 of the Act. The tenants submitted no documentary or oral evidence to show they are entitled to a rent rebate or that they paid their rent. I find the landlord entitled to an Order of Possession effective two days from service.

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord has satisfied the onus of proving there is a total of \$15,045 rent arrears and loss owed to him up to February 2016. I find the rental ledger supported his oral evidence well. I find the landlord entitled to a monetary order for \$15,045 in rental arrears and loss, to recover the filing fee and retain the security deposit to offset the amount owing.

On the tenant's Application, I find they submitted no documentary or oral evidence to support their claim. I dismiss their Application.

Conclusion:

I dismiss the application of the tenant in its entirety without leave to reapply. No filing fee was involved.

I find the landlord entitled to an Order of Possession effective two days from service and to a monetary order as calculated below. I find him entitled to retain the security deposit to offset the amount owing and to recover his filing fee of \$100 for his Application.

Calculation of Monetary Award:

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|---|----------|
| Rent Arrears to December 2015 | 13095.00 |
| Rental Loss to February 2016 | 1950.00 |
| Filing fee | 100.00 |
| Less security deposit (no interest 2014-16) | -488.00 |
| Total Monetary Order to Landlord | 14657.00 |

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: February 10, 2016

Residential Tenancy Branch

