



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

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; and
2. A Monetary Order for unpaid rent - Section 67.

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 notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy with solely the Tenant began on October 1, 2016. Rent of \$1,300.00 is payable in advance on the first day of each month. Collected and brought forward from a previous tenancy with the Tenant and a co-tenant on August 26, 2014, the Landlord holds \$650.00 as a security deposit and \$650.00 as a pet deposit. The Tenant failed to pay rent for January 2016 and on January 3, 2016 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent and utilities (the “Notice”) by posting the Notice on the door. The Tenant did not make an application to dispute the Notice. On January 13, 2016 the Tenant paid the outstanding rent. The Tenant has not paid the rent for February or March 2016. The Tenant has not returned the

keys to the Landlord, has not informed the Landlord of having moved out of the unit and it appears that articles are still at the unit. The Landlord believes that the Tenant has not moved out of the unit. The Landlord claims unpaid rent to March 15, 2015 and an order of possession for that date.

At the outset of the previous tenancy with the co-tenant the Landlord authorized the delivery of water to the unit and guaranteed payment of that water delivery. The Tenant and co-tenant were required to pay for the water directly to the water company. On November 30, 2015 the Tenant signed an agreement to be responsible for any outstanding water bills from the previous tenancy with the co-tenant. Since receiving the Notice the Tenant has incurred water costs and has made some payments on the water bill and the amount owed as of February 25, 2015 totals \$548.60. The Landlord has not paid any amount to the water company. The Landlord claims this amount.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the Notice by making an application for dispute resolution and the time for making that application has expired.

Based on the Landlord's evidence I find that the Tenant was given a valid Notice, deemed to have been received on January 3, 2016. The Tenant has not filed an application to dispute the Notice and the Tenant did not pay the full rent owed within the time allowed. Given these facts, I find that the Landlord is entitled to an **Order of Possession effective March 15, 2016**. I also find that the Landlord has established a monetary claim for unpaid rent for the period February 1 to March 15, 2016 in the amount of **\$1,950.00**.

Although the tenancy agreement does not require the Tenant to pay water bills directly to the Landlord, the Landlord guarantees the payment of the water bills and is therefore entitled to compensation should the water bills have to be paid by the Landlord. However the Landlord

has not incurred any loss or costs as of yet in relation to the water bills and the evidence indicates that the Tenant has made water payments since the issuance of the Notice. I therefore dismiss this claim with leave to reapply should the Landlord ultimately be required to pay any outstanding water bills on the Tenant's behalf.

The Landlord is entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$2,000.00**. Setting the combined security and pet deposit of **\$1,300.00** plus zero interest off the entitlement leaves **\$700.00** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord effective 1:00 p.m. on March 15, 2016.

I order that the Landlord retain the **deposit** and interest of \$1,300.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$700.00**. 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: March 02, 2016

Residential Tenancy Branch

