



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPT, MNDC, LAT, RR, FF

Introduction

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession for the tenant - Section 54
2. A Monetary Order for loss - Section 67
3. Allow tenant to change locks – Section 70
4. Allow tenant to reduce rent – Section 65
5. An Order to recover the filing fee for this application - Section 72.

I accept the tenant's evidence that despite the landlord having been personally served with the application for dispute resolution and notice of hearing in accordance with Section 89 of the Residential Tenancy Act (the Act) the landlord did not participate in the conference call hearing. The tenant was given opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Should the tenant receive an Order of Possession? If so,
Should the tenant be allowed to change locks?
Should the tenant be allowed to reduce rent?
Is the tenant entitled to the monetary amounts claimed?

Background and Evidence

The tenant's undisputed evidence is as follows.

The tenancy began January 23, 2016. Rent in the amount of \$700.00 is payable each month. The landlord did not collect a security deposit; however the tenant paid the

landlord \$350.00 for rent at the outset of the tenancy and was to provide additional rent February 01, 2016.

The tenancy is a shared-room accommodation in which a bed was provided by the landlord. The tenant shared the kitchen and bathroom with other occupants of the property. The landlord purportedly routinely rents out rooms of the house: shared rooms, or rents rooms for short duration, and at times permits rooms by the hour "for sex", according to the tenant. The landlord in this matter reportedly resides outside of the house, but on the same property. The tenant explained the landlord is an individual who themselves rents the entire house and sublets the rooms, but is not the owner of the house.

The tenant testified they and the landlord of this matter had a disagreement in respect to the payment for utilities on February 03, 2016; and as a result, the landlord locked out the tenant from the rental unit. The tenant sought aid from police and returned to the unit. The tenant was advised to collect all their personal belongings, consisting primarily of their clothes and no furniture, and they left the unit to pursue matters via this application. The tenant testified they were subsequently homeless for 6 days, and suffered as a result, until obtaining accommodation at their current temporary shelter - in which they can reside until March 08, 2016. The tenant seeks to return to the rental unit and continue the tenancy. The tenant further seeks monetary compensation for the eviction.

The tenant testified that they are not aware of the current status of the rental unit since last residing there one month ago and are not aware if their unit remains available, has been re-rented, or is still controlled by the landlord.

Analysis

Based solely on the tenant's evidence and in the absence of additional evidence, I find the tenant was compelled to leave the rental unit, clearly under duress, when the landlord locked out the tenant. I have not been provided evidence the rental unit remains available to the tenant, and is unoccupied a month after they left it. Or, that the rental unit is now not occupied by a new tenant. Based on the above known facts, I find it would be unfair, and potentially dangerous, to provide the tenant with an Order of Possession. As a result, I decline to grant the tenant such an Order and any order in relation to the tenancy. None the less, I find the tenant paid \$350.00 for a tenancy which subsequently failed under ambiguous circumstances a week after it started and they are entitled to recover all monies they advanced the landlord in rent. I grant the tenant the amount of **\$350.00** in this respect.

On reflection of the limited facts presented I find that an award for aggravated damages is appropriate in the circumstances. Aggravated damages are damages awarded to compensate and take into account intangible injuries in addition to the normally assessed pecuniary or monetary loss already addressed. Aggravated damages are an award of compensatory damages for non-monetary losses. My finding for aggravated damages is not in any way meant to be punitive for the landlord as I do not have the authority to award punitive damages to punish a party. Rather, my award for aggravated damages is a reflection of my finding that the tenant is entitled to be compensated for their mental and physical distress after rendered homeless, which was a determination and consequence of the landlord's behaviour. I grant the tenant **\$250.00** in this respect. The tenant is further entitled to recover their filing fee of \$100.00 for a total a Monetary Order in the sum of **\$700.00**.

Conclusion

I grant the tenant an Order under Section 67 of the Act for the amount 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 final and binding on both parties.

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 01, 2016

Residential Tenancy Branch