



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Barafield Realty Ltd. c/o Gateway Property Management Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MT, CNR, MNDC, LRE, OPT, FF

Introduction

This hearing dealt with two related applications. One was the landlord's application for an order of possession based upon a 10 Day Notice to End Tenancy for Non-Payment of Rent, a monetary order and an order permitting retention of the security deposit in partial satisfaction of the claim. The other was the tenant's application for orders setting aside the notice to end tenancy, granting her more time in which to file that application, and limiting the landlord's right of entry; a monetary order and an order of possession.

Although served with the landlord's Application for Dispute Resolution and Notice of Hearing by registered mail deemed delivered on April 6, 2016, and despite being the application on her own application for dispute resolution the tenant did not appear. As the tenant did not appear, her application is dismissed without leave to re-apply.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, on what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?
- What disposition should be made of the security deposit?

Background and Evidence

This tenancy commenced September 1, 2012 as a one year tenancy and has continued thereafter as a month-to-month tenancy. Currently the monthly rent is \$730.00 and is due on the first day of the month. The tenant has paid a security deposit of \$350.00.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent on March 2, 2016.

The landlord testified that the tenant had not paid the rent for March and April and the arrears total \$1460.00.

The landlord also testified that because the unit will not be vacated until May and not re-rented until later in the month it will also lose rental income for May in the amount of \$730.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 55(1) of the *Residential Tenancy Act* provides that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed or the notice to end tenancy is upheld, the arbitrator must grant an order of possession of the rental unit to the landlord. Therefore, I grant the landlord an order of possession effective two days after service on the tenant

I find that the landlord has established a total monetary claim of \$2290.00 comprised of arrears of rent for March and April in the amount of \$1460.00, loss of rental income for May in the amount of \$730.00 and the \$100.00 fee paid by the landlord for this application. I order that the landlord retain the deposit of \$350.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1940.00.

Conclusion

- a. An order of possession effective two days after service on the tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$1940.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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: April 29, 2016

Residential Tenancy Branch