



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for cause pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided undisputed affirmed evidence. The landlord stated that she served the tenant with the notice of hearing package and the submitted documentary evidence in person on March 1, 2016. The tenant confirmed in her direct testimony that she did receive the notice of hearing package and the submitted documentary evidence in this manner. The tenant did not submit any documentary evidence for the hearing. I accept the undisputed affirmed evidence of both parties and find that the tenant has been properly served with the notice of hearing package and the submitted documentary evidence as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for cause?

Are the landlords entitled to a monetary order for unpaid rent and utilities, for money owed or compensation for damage or loss and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties agreed that there was no signed tenancy agreement, but that monthly rent was \$450.00.

On January 25, 2016, the landlord served the tenant with the 1 Month Notice. The 1 Month Notice sets out an effective end of tenancy date of March 1, 2016 and that it was being given as:

- the tenant is repeatedly late paying rent; and
- the tenant has allowed an unreasonable number of occupants in the unit.

Both parties confirmed that the landlord served the tenant with the 1 Month Notice dated January 25, 2016 in person on January 25, 2016. The landlord stated that the service is confirmed in this manner as the tenant signed the 1 Month Notice dated January 25, 2016 in receipt of it.

The tenant stated that she was not disputing the landlord's reasons for cause.

The landlord seeks a monetary claim of \$900.00 for unpaid rent and utilities. The tenant has disputed this claim. The landlord was unable to provide any details of the unpaid rent and utilities.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

The tenant stated that she was not disputing the landlord's reasons for cause.

The tenant failed to move out or file an application for dispute within ten days of receiving the 1 Month Notice on January 25, 2016. In accordance with subsection 47(5) of the Act, the tenant's failure to take either of these actions within ten days led to the end of her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by March 1, 2016. As that has not occurred, I find that the landlord is entitled to a two-day order of possession.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I find of a balance of probabilities that the landlord has failed to establish a claim for unpaid rent and utilities of \$900.00. The claim is disputed by the tenant and the landlord is unable to provide any details of the unpaid rent or utilities. On this basis, the landlord's monetary claim is dismissed without leave to reapply.

As the landlord has been partially successful, I grant a partial recovery of the landlord's request for recovery of the \$100.00 filing fee. The landlord is entitled to recovery of \$50.00.

Conclusion

The landlord is granted an order of possession.
The landlord's monetary claim is dismissed.
The landlord is granted a monetary order for \$50.00.

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: April 19, 2016

Residential Tenancy Branch