



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Turkovics Holding Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF, CNR, MNSD, OLC

Introduction

This hearing was convened by way of conference call concerning applications made by the landlord and by the tenant. The landlord has applied for an Order of Possession and a monetary order for unpaid rent or utilities; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application. The tenant has applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities; for a monetary order for return of all or part of the pet damage deposit or security deposit; and for an order that the landlord comply with the *Act*, regulation or tenancy agreement.

An agent for the landlord attended the hearing, gave affirmed testimony and called one witness who gave affirmed testimony. However, despite being served with the Landlord's Application for Dispute Resolution, evidentiary material of the landlord, and notice of this hearing by registered mail on June 21, 2016, and despite making an application scheduled to be heard with the landlord's application, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participants who joined the call were the landlord's agent and witness. The landlord's agent testified that the tenant was served on that date and in that manner, and has provided a copy of a cash register receipt and Registered Domestic Customer Receipt stamped by Canada Post bearing that date, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Since the tenant has not attended the hearing, I dismiss the tenant's application without leave to reapply.

Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this tenancy began as a fixed term tenancy for one month, which was extended, and the tenant still has possession of the rental unit. Rent in the amount of \$750.00 per month is payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$375.00 which is still held in trust by the landlord, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided, which states that at the end of the first fixed term, April 23, 2016, the tenant must move out of the rental unit and is initialled by a landlord and a tenant. Another page was added to the tenancy agreement stating that at the end of the next fixed term, April 30, 2016, the tenant must move out of the rental unit but is not initialled by either party.

The landlord's agent further testified that the tenant failed to pay rent when it was due in April, May and June, and the landlord served the tenant with notices to end the tenancy. The tenant paid the rent for April, but only paid \$720.00 for May, 2016 and none for June. The landlord caused the tenant to be served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided, and it is dated June 2, 2016 and contains an effective date of vacancy of June 12, 2016 for \$750.00 unpaid rent that was due on June 1, 2016. No rent has been paid since, and the tenant is currently in arrears \$30.00 for May, and \$750.00 for each of the months of June and July, 2016.

The landlord's witness testified that he served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 2, 2016 by posting it to the door of the rental unit on June 2, 2016. The witness has not collected any rent from the tenant since serving the notice.

Analysis

The *Residential Tenancy Act* states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, provided the notice given is in the approved form. I have reviewed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 2, 2016 and I find that it is in the approved form and contains information required by the *Act*. Having dismissed the tenant's application seeking an order cancelling the notice, I find that the landlord is entitled under the *Act* to an Order of Possession. Since the effective date of vacancy contained in the notice has passed, I grant the Order of Possession on 2 days notice to the tenant.

I also accept the undisputed testimony of the landlord's agent and witness that the tenant has not paid any rent since the issuance of the notice, and the landlord has

established the claim of \$30.00 for unpaid rent for May, 2016 in addition to unpaid rent for June and July, for a total of \$1,530.00.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee.

I hereby order the landlord to keep the \$375.00 security deposit in partial satisfaction of the claim, and I grant a monetary order in favour of the landlord for the difference in the amount of \$1,255.00 ($\$1,530.00 + \$100.00 = \$1,630.00 - \$375.00 = \$1,255.00$).

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further order the landlord to keep the \$375.00 security deposit, and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,255.00.

These orders are final and binding and may be enforced.

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: July 19, 2016

Residential Tenancy Branch