



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ABC REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, loss of future income, cleaning costs and the filing fee. The landlord also applied to retain the security and pet deposits in partial satisfaction of her claim.

The landlord testified that on June 30, 2016, she visited the rental unit to serve the tenant with this notice of hearing package. The tenant was at home but did not open the door. The landlord testified that she served the tenant with the notice of hearing package by posting the notice on the door of the rental unit in the presence of a witness.

Based on the landlord's testimony, I find that the tenant has been served with the notice of hearing documents. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

An application for a monetary order may not be served by posting. I therefore dismiss the monetary portion of the landlord's application, with leave to reapply.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover the filing fee?

Background and Evidence

The tenancy started in December 2014. The current monthly rent is \$1,900.00 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$950.00 and a pet deposit of \$950.00.

The landlord testified that the tenant was repeatedly late paying rent and the last time he paid was in May 2016 at which time he paid a half month's rent. Since then the tenant continues to occupy the rental unit and has not paid rent for June, July and August 2016.

On May 18, 2016, the landlord served the tenant with a notice to end tenancy for cause by posting the notice on the door of the rental unit. The reason for the notice is that the tenant is consistently late on rent. The landlord filed financial statements and copies of email correspondence between the two parties to support her testimony. The documents filed into evidence by the landlord confirm that the tenant paid rent late in the months of August 2015 and February, March, April and May 2016.

The tenant did not dispute the notice to end tenancy.

Analysis

Based on the undisputed testimony and documentary evidence of the landlord, I find that the tenant did not dispute the notice to end tenancy. Pursuant to section 47 (5) of the *Residential Tenancy Act*, if a tenant has received a notice to end tenancy for cause and does not make an application for dispute resolution within ten days after receiving the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

In addition, pursuant to section 38 of the *Residential Tenancy Policy Guideline*, three late payments are the minimum number sufficient to justify a notice under these provisions. Since August 2015, the tenant was late paying rent on at least five occasions. Therefore, I find that the landlord has proven the reason to end the tenancy for cause and accordingly, I uphold the notice to end tenancy.

I find that the landlord is entitled to an order of possession and pursuant to section 55(2); I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$100.00. I grant the landlord a monetary order under section 67 of the *Residential Tenancy Act*, for \$100.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession **effective two days after service on the tenant.** I also grant the landlord a monetary order in the amount of **\$100.00.**

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: August 12, 2016

Residential Tenancy Branch