



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wheeler Cheam Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, OPR

Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, and requesting a Monetary Order for outstanding rent.

A substantial amount of documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issues are whether or not the applicant has established a right to an Order of Possession, and whether or not the applicant has established a monetary claim against the respondents, and if so in what amount.

Background and Evidence

The parties agree that this tenancy began on December 1, 2015 and that the monthly rent is \$2300.00, due on the first of each month.

The applicant testified that the tenants failed to pay the June 2016 rent, and therefore on June 6, 2016 a 10 day Notice to End Tenancy was posted on the tenant's door.

The applicant further testified that the tenants failed to comply with that notice and did not pay the June 2016 rent until June 29, 2016, which was accepted for use and occupancy only.

The applicant further testified that the tenants have paid no further rent and, as of today's date, rent is outstanding for the months of July 2016, August 2016, and September 2016, for a total of \$6900.00.

The applicant is therefore requesting an Order of Possession for as soon as possible, and a Monetary Order for the total outstanding rent.

The respondent/tenant testified that she is a co-tenant with her mother and she was paying her rent to her mother and assumed her mother had paid the rent.

The respondent further testified that she is not sure what is going on, however she states she has had a falling out with her mother and therefore has no evidence of having paid any further rent after the June 29, 2016 payment.

In response to the tenant's testimony the landlord testified that the tenant's mother has made the same statement to him; that she has been paying her portion of the rent to her daughter and that it is her daughter who has not paid the rent.

Analysis

In the absence of any proof from the tenants of having paid any rent after June 2016, I allow the landlords request for a monetary order for outstanding rent for the months of July 2016, August 2016, and September 2016 for a total of \$6900.00.

It is my decision that the tenants must pay the full \$6900.00 rent outstanding, as they have failed to vacate the rental unit, and therefore they should reasonably have anticipated that, more rent would be due.

It is also my finding that the landlord has shown that the tenants failed to pay the June 2016 rent and as a result a 10 day Notice to End Tenancy was served on the tenants on June 6, 2016. I accept that the tenants subsequently paid that outstanding rent, however the receipt given by the landlord states that it was for use and occupancy only and therefore it did not reinstate the tenancy, and the landlord therefore has the right to an Order of Possession.

Conclusion

Pursuant to section 55 of the Residential Tenancy Act I have issued an Order of Possession that is enforceable two days after service on the tenants.

Pursuant to section 67 of the Residential Tenancy Act I have issued a Monetary Order in the amount of \$6900.00.

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: September 21, 2016

Residential Tenancy Branch