



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR
CNR, ERP, RP, MNDC, OLC, PSF, RR, FF

Introduction

This hearing was convened by way of conference call concerning applications made by the landlords and by the tenants. The landlords have applied for an Order of Possession and a monetary order for unpaid rent or utilities.

The tenants have applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities; for an order that the landlords make emergency repairs for health or safety reasons; for an order that the landlords make repairs to the unit, site or property; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order that the landlords comply with the *Act*, regulation or tenancy agreement; for an order that the landlords provide services or facilities required by law or the tenancy agreement; for an order reducing rent for repairs, services or facilities agreed upon but not provided; and to recover the filing fee from the landlords for the cost of the application.

Both landlords attended the hearing and each gave affirmed testimony. However, the line remained open for 10 minutes prior to hearing any testimony and no one for the tenants attended the call. The landlords were present to respond to the tenants' application, and in the absence of any appearance by either tenant, I dismiss the tenants' application in its entirety without leave to reapply.

One of the landlords testified that the Landlord Application for Dispute Resolution, evidence and notice of this hearing were served on the tenants by posting the documents in the mailbox of the rental unit on July 24, 2016. The *Residential Tenancy Act* permits service in that manner if a landlord is applying for an Order of Possession, but not for a monetary order. Therefore, I dismiss the landlords' application for a monetary order for unpaid rent or utilities with leave to reapply.

Issue(s) to be Decided

The issue remaining to be decided is:

- Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?

Background and Evidence

The first landlord testified that this fixed-term tenancy began on August 1, 2015 and expired on July 31, 2016, thereafter reverting to a month-to-month tenancy, and the tenants still reside in the rental unit. Rent in the amount of \$1,200.00 per month is payable on the 1st day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$600.00 and collected a pet damage deposit of \$600.00 in January, 2016. Both deposits are still held in trust by the landlords. The rental unit is a single family dwelling, and a copy of the tenancy agreement has been provided.

The landlord further testified that the tenants failed to pay rent when it was due in July, 2016 and on July 7, 2016 the landlord placed a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities in the mailbox at the rental unit, a copy of which has been provided. It is dated July 7, 2016 and contains an effective date of vacancy of July 17, 2016 for unpaid rent in the amount of \$1,200.00 that was due on July 1, 2016.

Analysis

The *Residential Tenancy Act* states that where I dismiss a tenant's application to cancel a notice to end the tenancy given by a landlord, I must provide the landlord with an Order of Possession, provided the notice is in the approved form. I have reviewed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and I find that it is in the approved form and contains information required by the *Act*. Having dismissed the tenants' application for failure to attend the hearing, I hereby grant an Order of Possession in favour of the landlords. Since the effective date of vacancy has passed, I grant the Order of Possession on 2 days notice to the tenants.

Since the landlords have been partially successful with the application, the landlords are entitled to recovery of the \$100.00 filing fee. I order the landlords to retain \$100.00 from the security deposit, and to deal with the balance of the deposit(s) in accordance with the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, the tenants' application is hereby dismissed in its entirety without leave to reapply.

The landlords' application for a monetary order for unpaid rent or utilities is hereby dismissed with leave to reapply.

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

I further order the landlords to keep \$100.00 of the security deposit; and I order the landlords to deal with the balance of the deposit(s) in accordance with the *Residential Tenancy Act*.

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: September 01, 2016

Residential Tenancy Branch