



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gary Reeder Realty Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC
 CNR, CNC

Introduction

This hearing was convened by way of conference call concerning an amended application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and an application made by one of the tenants seeking an order cancelling a notice to end the tenancy for unpaid rent or utilities and for an order cancelling a notice to end the tenancy for cause. The applications have been joined to be heard together.

An agent for the landlord company attended the hearing with a witness and also represented the landlord company, both of whom gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants attended the call.

The landlord's agent testified that each of the named tenants was personally served with the landlord's Amended Application for Dispute Resolution and the hearing package on December 21, 2016. I accept that testimony, and I find that both tenants have been served in accordance with the *Residential Tenancy Act*.

Since the tenants have not attended the hearing, I dismiss the tenant's application in its entirety without leave to reapply.

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 grant an Order of Possession in favour of the landlord, so long as the notice given 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*. I have also reviewed the 1 Month Notice to End Tenancy for Cause and I find that it is in the approved form and contains information required by the *Act*. Therefore, I grant an Order of Possession in favour of the landlord.

Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established a monetary claim as against the tenants for unpaid rent or utilities?
- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for cleaning, carpet cleaning and a bylaw fine?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on September 1, 2016. Rent in the amount of \$1,400.00 per month is payable under the tenancy agreement on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$700.00 which is still held in trust by the landlord and no pet damage deposit was collected. The rental unit is a suite within a duplex and the other suite is also tenanted. The landlord company is a property management company acting for the owner of the rental building, and a copy of the tenancy agreement has been provided.

The landlord's agent further testified that the tenants were served with a 1 Month Notice to End Tenancy for Cause, a copy of which has been provided by the tenants, for continuous disturbances reported to the landlord's agent by the neighbouring tenants. It is dated November 28, 2016 and contains an effective date of vacancy of January 1, 2017. The reasons for issuing it state:

- Tenant is repeatedly late paying rent;
- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - adversely affect the quiet enjoyment, security, safety or physical well being of another occupant;
 - jeopardize a lawful right or interest of another occupant or the landlord.

The landlord's agent further testified that the tenants have been late with rent on more than one occasion and are currently in arrears of rent for December, 2016 and January, 2017. The tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided by the tenants. It is dated December 2,

2016 and contains an effective date of vacancy of December 13, 2016 for unpaid rent in the amount of \$1,400.00 that was due on December 1, 2016.

The landlord has provided a Monetary Order Worksheet setting out the following claims:

- \$2,800.00 for December, 2016 and January, 2017 rent;
- \$430.33 for unpaid water, sewer bill from the City;
- \$189.00 as an estimate for cleaning the rental unit;
- \$262.50 estimated for professional carpet cleaning;
- \$100.00 for recovery of the filing fee for the cost of this application;
- \$100.00 for an RCMP fine;
- \$340.00 estimated water, sewer bill from the City.

The neighbouring tenant contacted the landlord's agent yesterday to advise that a moving truck was at the rental unit and the tenants were in the process of moving out. The tenants have not paid any rent since the issuance of the notice, and the landlord claims \$2,800.00 for December and January.

The landlord has provided a copy of the City utility bill showing an outstanding amount of \$430.33 and the landlord's agent testified that the tenants were notified and said they would pay, but the landlord's agent checked with the City today, and none of that bill has been paid.

The landlord's agent further testified that the owner of the rental complex has contacted the landlord's agent today advising that there are numerous damages in the rental unit and that it has not been cleaned. The landlord has also provided written estimates for the cost of cleaning the rental unit and professionally cleaning the carpets, in the amounts set out on the Monetary Order Worksheet.

Police had been called to the rental unit on more than one occasion, and have told the landlord's agent that the tenants were fined \$100.00 for a noise infraction bylaw, but did not advise that if the tenants didn't pay, the landlord would be responsible.

The landlord's agent also called the City who advised that the estimate for the water and sewer bill for the months of December and January will be \$340.00.

The landlord's witness testified that the tenants caused such a big disturbance requiring the police to attend so many times due to partying and noise. The neighbouring tenants called the police and thus the tenants were fined \$100.00. However, due to privacy issues the police said that the landlord could not obtain anything in writing about it, but if the tenants didn't pay the fine, the landlord may have to. Still, nothing has been received in writing by the landlord company.

The landlord's agents have just discovered today that the tenants have left numerous damages to the rental unit, and the costs to repair are not yet known.

The landlord's witness also testified that if the tenants don't pay the water and sewer bills, the City will require the landlord to pay them.

Analysis

I accept the undisputed testimony of the landlord's agent and the landlord's witness that the tenants have abandoned the rental property today without providing any notice to the landlords of their intention to vacate, leaving rent and utilities outstanding. I also accept the undisputed testimony that the tenants did so without cleaning, and that damages exist. The landlord has not applied for a monetary order for damages, however I am satisfied in the circumstances that the landlord will not be able to re-rent the rental unit prior to February 1, 2017, and the tenants are liable for unpaid rent for December, 2016 in the amount of \$1,400.00 and \$1,400.00 for January, 2017. Similarly, the tenants are responsible for the payment of utilities, and I find that the landlord has established a claim in the amount of \$430.33 and estimated utilities for December and January of \$340.00.

There is no reason to disbelieve the landlord's agent and the landlord's witness that cleaning the rental unit and carpet cleaning is required, which is the responsibility of a tenant at the end of a tenancy, and I find that the landlord has established the claims of \$189.00 and \$262.50 respectively, but may not re-claim any further amount if the actual cleaning costs are more.

I am not satisfied that a bylaw infraction given to a tenant is payable by a landlord if the tenant doesn't pay it, and I dismiss the landlord's \$100.00 claim for the fine.

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

The landlord currently holds a security deposit in the amount of \$700.00 but has not applied to keep it, and I order that it be dealt with in accordance with the *Residential Tenancy Act*.

Since the effective date of vacancy of both notices to end the tenancy given by the landlord has already passed, I grant the Order of Possession in favour of the landlord on 2 days notice to the tenants.

In summary, I dismiss the tenant's application without leave to reapply and I grant an Order of Possession in favour of the landlord on 2 days notice to the tenants. I further

grant a monetary order in favour of the landlord in the amount of \$4,121.83 (\$2,800.00 + \$430.33 + \$340.00 + \$189.00 + \$262.50 + \$100.00 for the filing fee = \$4,121.83).

Conclusion

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

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

I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$4,121.83.

I order the parties to deal with the security deposit in accordance with Section 38 of the *Residential Tenancy Act*.

This order is 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: January 12, 2017

Residential Tenancy Branch