



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Just as the hearing was concluding, the tenant called into the teleconference. The tenant participated in the hearing for approximately four minutes before exiting the teleconference. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

The landlord testified that on March 14, 2017 she forwarded the landlord's application and supporting documents via registered mail to the tenant. The landlord provided a Canada Post receipt and tracking number as proof of service. Based on the testimony of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the application and supporting documents on March 19, 2017, the fifth day after their registered mailing.

Preliminary Issue – Amendment of Landlord's Application

The landlord confirmed that she wished to amend the landlord's application to increase her monetary claim to include April 2017 unpaid rent of \$680.00. I find that the tenant should reasonably have known that the landlord would suffer this loss of income if she did not pay the rent or vacate the rental unit to permit the landlord to re-rent the unit. Based on this undisputed evidence and in accordance with section 64(3)(c) of the *Act*, I

amend the landlord's application to include a monetary claim for April 2017 unpaid rent of \$680.00.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

Is the landlord authorized to recover the filing fee for this application from the tenant?

Background and Evidence

As per the submitted tenancy agreement and testimony of the landlord, the tenancy began on June 1, 2015 on a month-to-month basis. Rent in the amount of \$680.00 is payable on the first of each month. The tenant did not remit a security deposit at the start of tenancy. The tenant continues to reside in the rental unit.

The landlord testified that on February 16, 2017, she posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, (the "10 Day Notice"), to the rental unit door, for unpaid rent in the amount of \$840.00. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was served with the landlord's 10 Day Notice on February 19, 2017, three days after it was posted.

The landlord seeks a monetary order of \$2,200.00 for unpaid rent from January 2017 to April 2017. The landlord claimed that the tenant paid a total of \$520.00 in rent for the above four months.

The landlord is also seeking to recover the \$100.00 filing fee for this application from the tenant.

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for unpaid rent or utilities the tenant may, within five days, pay the overdue rent or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does not pay the overdue rent or file an application, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must move out of the rental unit.

Based on the landlord's testimony and the notice before me, I find that the tenant was served with an effective notice. As the tenant did not pay the overdue rent or file an

application to dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must move out of the unit. As this has not occurred, I find that the landlord is entitled to a two (2) day order of possession, pursuant to section 55 of the *Act*.

Section 26 of the *Act* requires the tenant to pay rent on the date indicated in the tenancy agreement, which is the first day of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

I find that the landlord proved that the current rent for this unit is \$680.00. I find the landlord provided undisputed evidence that the tenant failed to pay full rent from January 2017 to April 2017. Therefore, I find that the landlord is entitled to \$2,200.00 in rent.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for the application, for a total award of \$2,300.00.

Conclusion

I grant an order of possession to the landlord effective **two (2) days after service on the tenant**.

I issue a monetary order in the landlord's favour in the amount of \$2,300.00 against the tenant. The tenant must be served with this order as soon as possible. Should the tenant fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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: April 12, 2017

Residential Tenancy Branch