



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing and 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 tenant joined the call. The landlord testified that he served the tenant personally with the Landlord's Application for Dispute Resolution and notice of this hearing on March 23, 2017. I accept that affirmed testimony and I find that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord testified that this month-to-month tenancy began about 8 years ago and the tenant still resides in the rental unit. Rent in the amount of \$850.00 per month is currently payable on the 1st day of each month. At the outset of the tenancy the

landlord collected a security deposit from the tenant in the amount of \$400.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment within a multi-suite complex. A copy of the tenancy agreement has not been provided.

The landlord further testified that the tenant fell into arrears of rent and on March 7, 2017 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by personally handing it to the tenant. A copy has been provided and it is dated March 7, 2017 and contains an effective date of vacancy of March 17, 2017 for unpaid rent in the amount of \$1,700.00 that was due on March 1, 2017. The tenant has not paid rent for the months of February or March, has not paid any rent since being served with the notice and is now further in arrears for the month of April, 2017.

The tenant has not served the landlord with an application for dispute resolution and the landlord seeks an Order of Possession as well as a monetary order for \$2,550.00 for unpaid rent, recovery of the \$100.00 filing fee, and an order permitting the landlord to keep the \$400.00 security deposit.

Analysis

Firstly, the *Residential Tenancy Act* states that once served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent in full or dispute the notice by filing and serving the landlord with an application for dispute resolution. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, I accept the undisputed testimony of the landlord that the tenant has not served the landlord with an application for dispute resolution disputing the notice, and I have no such application before me. I also accept the undisputed testimony of the landlord that the tenant has not paid any rent since the issuance of the notice and is now further in arrears. 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*. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent. Since the effective date of vacancy has passed, I grant the Order of Possession on 2 days notice to the tenant.

I also accept the undisputed testimony of the landlord that the tenant has not paid any rent for the months of February, March or April, 2017 and the landlord has established a monetary claim in the amount of \$2,550.00 for unpaid rent.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee, however, I am not satisfied that the landlord has established any other monetary claim.

Having found that the landlord is entitled to monetary compensation for \$2,650.00, I order the landlord to keep the \$400.00 security deposit in partial satisfaction, and I grant a monetary order in favour of the landlord for the difference in the amount of \$2,250.00.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further order the landlord to keep the \$400.00 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,250.00.

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: April 19, 2017

Residential Tenancy Branch