



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR MNSD FF

Introduction:

Both parties attended the hearing and gave sworn testimony. They agreed the 10 Day Notice to End Tenancy dated March 17, 2017 to be effective April 1, 2017 was served and received by the tenants and the Application for Dispute Resolution was served by registered mail and to the tenants' door as well. I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55; and
- d) An order to recover the filing fee pursuant to Section 72.

Issue(s) to be Decided:

Is the landlord entitled to an Order of Possession and a Monetary Order for rental arrears and filing fee?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced May 2009, a security deposit of \$575 was paid in April 2009 and the rent was \$1150 a month. The landlord said the tenant owes \$4,000 in rent from September 2016 to April 2017. A rent ledger was provided in evidence showing short payments in September and October 2016 and only one payment made between January and May 2017. Many late payments were made and charged at \$20 each in the rental ledger but the landlord has deducted these from their monetary claim. The landlord is claiming the rental arrears of \$4000 to the end of April 2017 and requests an Order of Possession.

The tenant submitted no documents to dispute the amount owing. They said they had problems so could not pay the rent in January 2017. They then had no heat and a bug infestation in February 2017 which caused the husband to have medical problems and they spent the rent money living elsewhere. They said they hope to bring an Application against the landlord seeking compensation for their issues within the limitation period.

The parties discussed an effective date for the Order of Possession. The landlord voluntarily offered an effective date of May 31, 2017 and the tenant was pleased and agreed as this would give her time to pack.

In evidence is the Notice to End Tenancy, proofs of service, a rent ledger and a monetary claim. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. I find the tenancy ended on April 1, 2017. An Order of Possession is issued effective May 31, 2017 as agreed..

Monetary Order

I find that there are rental arrears and over-holding rent in the amount of \$4000.00 representing rent from September 2016 to April 30, 2017. I give the landlord leave to reapply for further rental and other losses.

Conclusion:

I find the landlord is entitled to an Order of Possession effective May 31, 2017 and a monetary order as calculated below. I find them entitled to retain the security deposit to offset the amount owing and to recover filing fees paid for this application.

I give the landlord leave to reapply for further rental and other losses.

Calculation of Monetary Award:

Rental Arrears and Over holding Rent Sept. 2016 – April 30, 2017	4000.00
Filing fee	100.00
Less security deposit (no interest 2009-17)	-575.00
Total Monetary Order to Landlord	3525.00

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: May 16, 2017

Residential Tenancy Branch