



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REALTY EXECUTIVES ECO-WORLD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR OPC RR MNDC MNSD FF

Introduction:

Both parties attended the hearing. Each confirmed service of the 10 Day Notices to End Tenancy, the latest being dated July 10, 2017 to be effective July 21, 2017. They confirmed they received service of each other's Application for Dispute Resolution by registered mail. The tenant had filed two applications, one to respond to a ten day Notice to End Tenancy in June and the second to respond to the 10 Day Notice issued in July 2017. . I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent;
- b) An Order of Possession pursuant to sections 46 and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

The tenant applies pursuant to the Act for orders as follows:

- e) To cancel a Notice to End Tenancy for unpaid rent pursuant to section 46;
- f) To obtain Permission to sublet and to change locks;
- g) A monetary order or rent rebate as compensation for facilities not provided and/or repairs not done; and
- h) To recover the filing fee for this application.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that rent is owed and they are entitled to an Order of Possession and a monetary order for rental arrears and to recover the filing fee for this application?

Or is the tenant entitled to any relief? Has the tenant proved on a balance of probabilities that they should have permission to sublet and change locks and that they are entitled to compensation for repairs not done and for repairs they did?

Preliminary Issue:

An agent of the landlord had been named with the professional landlord on the tenant's Application. Both parties agreed that the style of cause (the name) should be amended to show only the professional landlord's name. The amendment was granted.

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in April 2017 on a fixed term lease expiring March 31, 2018, that rent is \$3000 a month and a security deposit of \$1500 was paid. The parties explained that a cheque from the government in the amount of \$725 was sent for some months but none for August 2017. The landlord provided proof that \$4550 was owed as of July 7, 2017 when the second 10 Day Notice to End Tenancy was issued. They explained that the government cheque received in July reduced this by \$725 to \$3825 but no rent was paid in August so there are arrears of \$6825 to date. The landlord requests an Order of Possession and a monetary order for outstanding rent and filing fee.

In the tenant's application, they said there was a shower downstairs that was broken and clogged, the lower suite had mould and water damage since move-in so they lost the person who was renting it and the deck needed repair. The tenant explained the home was on one lease and the male tenant is seldom there as he has work out of town. She asked for some rent rebate due to the issues in the unit. She said she had an arrangement with another agent to do some repairs.

The agent of the landlord who attended the hearing denied there was any agreement for the tenant to stay and do repairs. She pointed to the condition inspection report at move-in which showed there were no problems and to the invoice for deck repair and a roofer's report in evidence. The roofer's report noted that the yellow stain which concerned the tenant was not from a leak but was unmatched touch up paint and there was some ponding water on the exterior deck. A deck report in evidence noted the deck problem being addressed in April 2017. A mid inspection report done on July 12, 2017 by the agent A. who was referenced by the tenant noted some things that had to be done by the tenant to return the unit to the original condition.

After some discussion, the parties agreed to an effective date for the Order of Possession to be August 31, 2017.

In evidence are two Notices to End Tenancy for unpaid rent, inspection reports, NSF cheque for July 2017, copies of government cheques, deck and roof repair notes and invoice, emails and registered mail receipts. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

Order of Possession:

Section 26 of the Act provides that a tenant must pay rent on time, whether or not the landlord fulfills their obligations under the Act. I find the tenant has outstanding rent in the amount of \$6825. I find the landlord is entitled to an Order of Possession effective August 31, 2017 as agreed.

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord's evidence credible and well supported by the evidence supplied to support their claim for unpaid rent. I find the tenant owes rent arrears of \$6825 to the end of August 2017 and the landlord is entitled to a monetary order for this amount and to recover their filing fee.

On the tenant's Application, I find insufficient evidence to support their allegations that the landlord neglected to do repairs which caused them hardship. The inspection reports do not support their statements. I find the reports and the roofer's and deck reports show the landlord acted in a timely way to address concerns. I note the roofer's report notes there is discolouration of paint due to mismatched patching but not leaking water or mould. Although the tenant said she had an agreement with agent, A., I note the July report was done by agent A. and all he noted were items that had to be restored by the tenant due to things they had done without authorization. I dismiss the Application of the tenant.

Conclusion:

I dismiss the application of the tenant in its entirety without leave to reapply. No filing fees were paid by them.

I find the landlord entitled to an Order of Possession effective August 31, 2017 and to a monetary order as calculated below. I find them entitled to recover the filing fee and to

retain the security deposit to offset the amount owing. As this is a fixed term lease, I give the landlord leave to reapply for further rental loss if necessary.

Calculation of Monetary Award:

Rent owed to August 31, 2017	6825.00
Filing fee	100.00
Less security deposit	-1500.00
Total Monetary Order to Landlord	5425.00

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: August 24, 2017

Residential Tenancy Branch