Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, MNR, MNSD, CNR, MNDC, FF*

Introduction

This hearing dealt with applications by the landlord and the tenant pursuant to the *Residential Tenancy Act.* The landlord applied for an order of possession and a monetary order for unpaid rent, and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim. The tenant applied to cancel the notice to end tenancy and for a monetary order for the cost of moving and for compensation for the loss of her tenancy at this rental unit.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord acknowledged receipt of evidence submitted by the tenant. Both parties gave affirmed testimony.

At the start of the hearing, the landlord testified that the tenant had moved out on July 30, 2017. Since the tenant has moved out, the landlord no longer requires an order of possession and the tenant's application to cancel the notice to end tenancy is also moot. Both parties agreed that the landlord has already returned the security deposit. Therefore, this hearing only dealt with the monetary claims of the landlord for unpaid rent and for the recovery of the filing fee and of the tenant for moving costs and compensation for the loss of use of the rental unit.

Issues to be decided

Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee? Is the tenant entitled to moving costs and compensation?

Background and Evidence

The parties agreed that the tenancy started on February 15, 2017 for a fixed term of one year. The monthly rent was $1,050.00 due on the first of the month. The tenancy ended on July 30, 2017.
The tenant testified that she met with a motor vehicle accident and was unable to work. She applied for disability and was given a form that needed the landlord's signature. The tenant stated that the landlord refused to sign the form and therefore she was unable to receive funds from Social Services to pay her rent. The tenant agreed that

she failed to pay rent that was due on June 01, 2017. On June 06, 2017, the landlord served the tenant in person, with a notice to end tenancy for non-payment of rent.

The tenant alleged that the landlord refused to take rent in any form other than cash. The landlord denied the allegation.

The landlord testified that she did not refuse to sign a form for the tenant. She stated that she spoke with the tenant prior to her visit to the rental unit on June 06, 2017 to serve the tenant with the notice to end tenancy. The landlord stated that the tenant did not present her with a form that needed her signature.

The tenant disputed the notice in a timely manner and agreed that she continued to live in the rental unit without paying rent for June or for July 2017. The landlord is claiming rent for these two months along with loss of income for August 2017.

The tenant stated that the actions of the landlord to refuse to sign the disability form caused her and her family hardship and resulted in a lack of funds to pay rent. The tenant also testified that the tenancy was a fixed term of one year and by terminating the tenancy prior to the end date, the landlord breached the contract. The tenant stated that she incurred additional expenses to move.

The tenant filed a copy of an estimate from a moving company. She stated that she did not use the services of that company and agreed that the landlord assisted her in her move. The tenant is also claiming $2,000.00 as compensation for being forced out of a fixed term tenancy agreement and having to pay a higher rent at her new rental unit.

Analysis
Section 26 of the *Residential Tenancy Act*, states that a tenant must pay rent when it is due under the tenancy agreement. The tenant agreed that she occupied the rental unit for the months of June and July 2017 and had not paid rent. Therefore, I find that the landlord is entitled to rent for these months in the amount of $2,100.00.

The landlord also requested loss of income for the month of August 2017. The landlord testified that she advertised the availability of the unit immediately after the tenant moved out on July 30, 2017.

Since the date of this hearing is August 03, 2017 and the landlord is actively seeking a replacement tenant, it is possible that the landlord may find a tenant to rent the unit for part of August. The landlord is at liberty to make an application for dispute resolution to recover any loss of income she may incur in the month of August.

Since the landlord has proven her case, she is entitled to the recovery of the filing fee of $100.00.

The tenant failed to pay rent for June 2017 which resulted in the notice to end tenancy. The tenant argued that the landlord refused to sign her application for disability and therefore she did not receive her disability allowance and was unable to pay rent. The tenant is claiming compensation for the termination of this tenancy due to the landlord's actions. Based on the testimony of both parties, I find that by failing to pay rent when it was due, the tenant breached the contract which resulted in the end of the tenancy. Accordingly, the tenant is not entitled to her claim for moving costs or for compensation for the loss of the rental unit.

The landlord has established a claim of $2,100.00 for unpaid rent plus $100.00 for the recovery of the filing fee for a total of **$2,200.00**. I grant the landlord a monetary order under section 67 of the *Residential Tenancy Act,* this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion
I grant the landlord a monetary order in the amount of $2,200.00

The tenant's application is dismissed in its entirety.

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 02, 2017

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Residential Tenancy Branch