



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, CNR, LRE, OLC, MNR, 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 for a monetary order for unpaid rent. During the hearing the landlord also requested for the recovery of the filing fee. The tenant applied to cancel the notice to end tenancy for non-payment of rent and to restrict the landlord's entry into the rental unit and for an order directing the landlord to comply with the *Act*.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside? Is the landlord entitled to a monetary order? Is the tenant entitled to the remedies that he has applied for?

Background and Evidence

The tenancy started on July 01, 2017. The rent is \$1,200.00 per month due on the first of each month.

On July 07, 2017, the landlord served the tenant with a notice to end tenancy for unpaid rent in the amount of \$1,200.00. The tenant disputed the notice after the legislated time frame of five days. In addition the tenant did not pay rent for July 2017 and continued to occupy the rental unit without paying rent.

The tenant agreed that he had not paid any rent to the landlord from the start of this tenancy on July 01, 2017. The landlord is applying for an order of possession and a monetary order for unpaid rent for July, August and September in the total amount of \$3,600.00.

The tenant testified that he had not paid rent because the landlord had entered the rental unit without his permission and escorted by police. The tenant also complained that the rental unit is located on the upper floor and has no separation from the unit below. The tenant stated that he asked for a door that he could lock and the landlord refused. The landlord testified that there is a door that can be locked from both sides that separates the two units.

Analysis

Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent or dispute the notice by making application for dispute resolution. If the tenant does not pay rent or dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date.

The tenant received the notice to end tenancy for unpaid rent, on July 07, 2017 and did not pay rent within five days of receiving the notice to end 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. Pursuant to section 55(2), I am issuing a formal order of possession effective two days after service on the tenant. The order may be filed in the Supreme Court for enforcement.

The tenant agreed that he had not paid rent for July, August and September and therefore I award the landlord his claim for unpaid rent in the amount of \$3,600.00. Since the landlord has proven his claim I award the landlord the recovery of the filing fee of \$100.00.

Overall the landlord has established a claim of \$3,700.00 for unpaid rent and the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Since the tenancy is ending, the tenant's application to restrict the landlord's entry into the unit and for an order directing the landlord to comply with the *Act* is moot and accordingly dismissed.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. I also grant the landlord a monetary order in the amount of **\$3,700.00**.

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: September 27, 2017

Residential Tenancy Branch