



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL OPUM-DR

Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning an application made by the landlords for an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

The landlords had applied by way of the Direct Request process, and an Interim Decision was made on April 4, 2018 adjourning the application to a participatory hearing, and ordering that the landlords serve a copy of the Interim Decision and other documents within 3 days of receiving the Interim Decision.

The landlords were represented at the hearing by an agent who gave affirmed testimony and called one witness who also gave affirmed testimony. However, the line remained open while the phone system was monitored for 15 minutes prior to hearing any testimony, and no one for the tenant joined the call. The landlords' witness testified that he personally served the tenant with the Application for Dispute Resolution and notice of this hearing on April 4, 2018, the day that the Interim Decision was received from the Residential Tenancy Branch. I accept that testimony, and I find that the tenant has been served in accordance with the *Residential Tenancy Act* and the order made on April 4, 2018.

Issue(s) to be Decided

- Have the landlords established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Have the landlords established a monetary claim as against the tenant for unpaid rent or utilities?

Background and Evidence

The landlords' agent testified that this month-to-month tenancy started on September 1, 2017 and the tenant still resides in the rental unit. Rent in the amount of \$1,350.00 per month is payable on the 1st day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$675.00 which is still held in trust by the landlords and no pet damage deposit was collected. The rental unit is a duplex, and the landlords do not reside on the rental property.

The landlords' agent further testified that rental arrears continue to accumulate, and on March 2, 2018 the landlords' witness personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided as evidence for this hearing. It is dated March 2, 2018 and contains an effective date of vacancy of March 12, 2018 for unpaid rent in the amount of \$1,700.00 that was due on March 1, 2018 and unpaid utilities in the amount of \$696.85 following written demand on March 2, 2018.

The tenant paid \$620.00 rent on April 4, 2018 and another \$400.00 on April 28, 2018 as well as another \$150.00, leaving \$180.00 outstanding for March. Nothing has been paid to the landlords since.

The electrical bill dated February 7, 2018 is \$1,296.85 and the tenant paid \$600.00 toward that.

The tenant has not served the landlords with an Application for Dispute Resolution disputing the notice to end the tenancy, and the landlords seek an Order of Possession as well as a monetary order of \$2,700.00 for unpaid rent for April and May, 2018 as well as \$180.00 outstanding for March and \$641.39 remaining on the electrical bill.

The landlord's witness is the spouse of one of the named landlords, and testified that the notice to end the tenancy was served on March 2, 2018 for \$1,700.00, of which \$350.00 was for February's rent. The tenant then paid \$500.00 to cover the arrears for February and \$150.00 toward March rent. The tenant paid an additional \$620.00 and \$400.00 for March, leaving a balance of \$180.00 still outstanding, and no rent has been paid for April or May, 2018.

With respect to the utilities, the witness testified that the electrical bill is in the witness' name but electricity is not included in the rent. The landlords have provided a bill dated February 7, 2018 as evidence for this hearing. It shows a due date of March 9, 2018 for the amount of \$1,296.85 and covers the period of December 8, 2017 to February 7,

2018. It is in the name of the witness and shows the rental address, and that \$481.99 was outstanding from the previous bill. The witness testified that the tenant paid \$600.00 toward the bill on February 12, 2018 and another \$680.00 on April 6, 2018, leaving a balance of \$16.85 outstanding as well as a late fee charged by the electrical company of \$10.45.

The utility company also sent a demand letter to the landlord dated February 7, 2018 demanding payment of arrears of \$692.21 on pain of disconnection. A copy has been provided for this hearing. The witness testified that the electric bill for February 7, 2018 to April 7, 2018 is \$624.54, and in addition to the \$16.85 outstanding from the previous bill, the landlords are owed \$641.39 for utilities.

The landlords claim \$641.39 for the electrical bills; \$2,700.00 for April and May, 2018 rent; \$180.00 for March rent and recovery of the \$100.00 filing fee.

Analysis

Firstly, the *Residential Tenancy Act* states that once a tenant is 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. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy. I accept the undisputed testimony of the landlords' agent and witness that the tenant did not pay the rent or serve the landlords with an Application for Dispute Resolution, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy.

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*. Since the effective date of vacancy has passed, I grant an Order of Possession in favour of the landlords on 2 days notice to the tenant.

With respect to the unpaid rent, I have reviewed the receipts provided and the tenancy agreement, and I accept the undisputed testimony of the landlords' agent and witness that \$180.00 was outstanding for March, 2018 and the tenant hasn't paid any rent since, leaving an additional \$2,700.00 outstanding for April and May, 2018. I find that the landlords have established a claim of \$1,280.00 for unpaid rent.

Considering the bills provided and the amounts claimed, I am also satisfied that the tenant owes for the electrical utility totalling \$641.39.

Since the landlords have been successful with the application, the landlords are also entitled to recovery of the \$100.00 filing fee.

The landlords have not applied for an order permitting the landlords to keep all or part of the security deposit, and I make no orders with respect to it.

Conclusion

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

I further grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$3,621.39.

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: May 16, 2018

Residential Tenancy Branch