



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL OPRM-DR
 CNR ERP FFT LAT LRE

Introduction

This hearing was convened by way of conference call concerning applications made by the landlord and by the tenant. The landlord has applied 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 tenant has applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities; an order that the landlord make emergency repairs for health or safety reasons; an order permitting the tenant to change the locks to the rental unit; for an order limiting or setting conditions on the landlord's right to enter the rental unit; and to recover the filing fee from the landlord.

The landlord and the tenant attended the hearing and the landlord was accompanied by a property manager, hereafter referred to as the witness. The landlord's witness and the tenant each gave affirmed testimony, and the parties were given the opportunity to question each other. The tenant has not provided any evidentiary material, and no issues were raised with respect to the evidentiary material filed by the landlord, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Has the tenant established that the landlord should be ordered to make emergency repairs for health or safety reasons?
- Has the tenant established that the tenant should be permitted to change the locks to the rental unit?

- Has the tenant established that the landlord's right to enter the rental unit should be limited or permitted conditionally?

Background and Evidence

The landlord's witness testified that he is the property manager of the rental unit, and this fixed term tenancy began on January 12, 2018 and expired on April 30, 2018, and the tenant still lives in the rental unit. Rent in the amount of \$1,800.00 per month is payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$800.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a condominium apartment, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The witness further testified that the tenant is currently in arrears of rent the sum of \$5,400.00, having paid no rent for the months of April, May, or June, 2018. On April 5, 2018 the 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 April 5, 2018 and contains an effective date of vacancy of April 15, 2018 for unpaid rent in the amount of \$1,800.00 that was due on April 1, 2018. The tenant has not paid any rent since the issuance of the Notice.

The tenant testified that when served with the Notice, the landlord's witness was stalking the tenant. The tenant gave him cash for April's rent but didn't get a receipt.

The tenant didn't pay rent for March or June, and is moving out at the end of this month.

The landlord got disrespectful, so the tenant stopped paying rent.

Analysis

The *Residential Tenancy Act* states that a tenant must pay the rent when it is due even if the landlord fails to comply with the *Act* or the tenancy agreement. In this case, the tenant has not paid the rent. The landlord's witness testified that no rent has been paid for April, May or June, 2018; and the tenant testified that rent was paid for April, but not for March or June. I prefer the testimony of the landlord's agent, in that it doesn't make much sense that the tenant would fail to pay rent for March, pay rent for April, fail to pay rent for June, and no mention of rent payable for May. In the circumstances, I find that the tenant has failed to pay any rent for April, May or June, 2018, and I see no reason to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The tenant's application to cancel it is dismissed.

The *Residential Tenancy Act* also states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the notice given is in the approved form. 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 the Order of Possession on 2 days notice to the tenant.

I also find that the landlord has established a monetary claim in the amount of \$5,400.00 for unpaid rent. Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee.

Since the tenancy is ending, the balance of the tenant's application is hereby dismissed without leave to reapply.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$5,500.00.

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: June 12, 2018

Residential Tenancy Branch