



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *CNR, CNC, RP, OLC, FF*

Introduction

This hearing dealt with two applications by the tenant, pursuant to the *Residential Tenancy Act*.

The tenant applied to cancel Notices to End Tenancy for Unpaid Rent and for Cause and for an Order directing the landlord to carry out repairs and comply with the *Act*. The tenant also applied for the recovery of the filing fee paid for both applications.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The tenant testified that no evidence was served to the landlord but acknowledged receipt of evidence submitted by the landlord. Both parties gave affirmed testimony.

Issues to be decided

Is the landlord entitled to an order of possession or should the notices to end tenancy be set aside? Is the landlord entitled to a monetary order? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on November 01, 2022. The current monthly rent is \$6,630.00 due on the first of each month.

On April 25, 2024, the landlord served the tenant with a Notice to End Tenancy for Cause, by email. The tenant acknowledged receipt of the Notice. The reasons for the Notice were that the tenant is repeatedly late paying rent, has rented out the basement

to other occupants and does not maintain the yard and pool. The tenant disputed the Notice in a timely manner.

The tenant testified that rent was last paid on April 01, 2024, and acknowledged that rent in the amount of \$13,260.00 was owed to the landlord for the months of May and June 2024.

On May 06, 2024, the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent in the amount of \$6,630.00. The tenant disputed the Notice in a timely manner but failed to pay outstanding rent. The tenant continued to occupy the rental unit without paying rent that was due on June 01, 2024. At the time of the hearing, the tenant agreed that rent in the amount of \$13,260 was owed to the landlord.

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 May 06, 2024 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 June 30, 2024. The order may be filed in the Supreme Court for enforcement.

Since I have upheld the notice to end tenancy for non-payment of rent, it is not necessary to address the other notice to end tenancy.

The tenant agreed that he had not paid rent for May and June 2024 and therefore I award the landlord a monetary order in the amount of \$13,260.00, for unpaid rent.

Since the tenant has not proven their claim, they must bear the cost of filing their applications.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for \$13,260. 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 for an order directing the landlord to comply with the *Act* and carry out repairs is moot and accordingly dismissed.

Conclusion

I grant the landlord an order of possession effective **June 30, 2024**.

I also grant the landlord a monetary order in the amount of **\$13,620.00**.

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: June 18, 2024

Residential Tenancy Branch