

DECISION

Dispute Codes:

OPR; MNR; MNSD; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; to keep the security deposit and pet deposit; and to recover the cost of the filing fee from the Tenant.

I reviewed the evidence provided by the Landlord prior to the Hearing. The Landlord gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order, and if so, in what amount?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenant?

Background and Evidence

The Landlord's agent gave the following testimony and evidence:

On July 12, 2009, the Landlord personally served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by handing her the Notice at the Tenants' residence.

On July 27, 2009, the Landlord served the Tenant the Notice of Hearing documents, by placing the documents in her mail box at the rental unit.

The tenancy started on March 15, 2009. The Tenant rented the upper suite of a house, for \$940.00 per month. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenant's daughter and the Tenant subsequently rented the entire house for \$1,800.00 per month in May, 2009. There is no written tenancy agreement with respect to the whole house. There is no written tenancy agreement with the Tenant's daughter.

The Landlord testified that in late July, the Tenant paid July's rent in the amount of \$940.00, and that the Landlord accepted the money as rent. The Landlord testified that the daughter has not paid any rent at all.

Analysis

The Notice to End Tenancy claims an amount owing of \$940.00 for the month of July. The Tenant's daughter is not named on the Notice to End Tenancy.

The Landlord's Application does not name the Tenant's daughter as a Tenant.

The tenancy agreement does not name the Tenant's daughter, and is for the upper suite of the house only, with rent in the amount of \$940.00 per month.

The Landlord stated that in May, 2009, there was a new tenancy created for the whole of the house, which included the Tenant's daughter as a co-tenant, at the monthly rent of \$1800.00. The Landlord stated that the Tenant's daughter has not paid rent since she moved in. If there is a verbal tenancy agreement between the Landlord and the Tenant's daughter (and I am not making that finding), then it is a separate tenancy agreement with the Landlord. The Tenant paid the total July rent due to the Landlord, in accordance with the Notice to End Tenancy.

The Tenant paid the Landlord July's rent in the amount of \$940.00 late in July, which the Landlord accepted as rent. Therefore, I find that the Landlord reinstated the tenancy. The Notice to End Tenancy issued July 11, 2009, is cancelled. The tenancy remains in full force and effect.

The Landlord's application for a Monetary Order in the amount of \$940.00 for unpaid rent is dismissed, as the Tenant has paid July's rent. The Landlord's application to keep the security deposit paid by the Tenant is dismissed. The Landlord has not been successful and is not entitled to recover the cost of the \$50.00 filing fee from the Tenant.

Conclusion

The Landlord's application is dismissed in its entirety, without leave to re-apply. The tenancy remains in full force and effect.

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 15, 2009