



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPL, MNR, FF

Introduction

This hearing was convened by way of conference call in response to an application made by the landlords for an Order of Possession for unpaid rent or utilities, for an Order of Possession for landlord's use of property, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of this application.

One of the landlords attended the conference call hearing and gave affirmed testimony, however despite being personally served with the Landlord's Application for Dispute Resolution and notice of hearing documents on October 20, 2011, the tenant did not attend. I accept the testimony of the landlord that the tenant was served personally on October 20, 2011, and I find that service has been effected in accordance with the *Residential Tenancy Act*.

During the course of the hearing, the landlord testified that the tenant has moved from the rental unit and therefore, the applications for an Order of Possession for landlord's use of property and for an Order of Possession for unpaid rent or utilities are withdrawn.

The landlord stated that an evidence package was provided to the Residential Tenancy Branch at the time of filing the landlord's application, however no evidence appears in the file, and I have not seen the evidence described by the landlord. The testimony provided by the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

This month-to-month tenancy began about 12 years ago and the tenant moved from the rental unit on October 24 or October 25, 2011. Rent in the amount of \$1,400.00 per month was payable in advance on the 1st day of each month. The landlord did not collect a security deposit from the tenant.

The landlord testified that the parties had become friends during the lengthy tenancy. The tenant had been paying rent by cash, but was hurt and unable to work for a time, and got behind in the rent. The tenant caught up the rent and fell into arrears again, owing \$400.00 for February, 2011. The tenant made no rent payments for the months of March, April, May or June, 2011 and made a \$400.00 payment in July, 2011 which was applied to the unpaid rent from February, 2011. The tenant further failed to pay any rent for the months of August, September or October, 2011.

The landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property near the end of July, 2011 with an effective date of vacancy of September 30, 2011, but the tenant didn't move. On October 2, 2011 the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The landlord testified that the notice was dated October 2, 2011 and stated that the tenant failed to pay rent in the amount of \$9,800.00 that was due on October 1, 2011 and contained an effective date of vacancy of October 15, 2011. The landlord intentionally gave more than 10 days to vacate the rental unit to give the tenant more time to find a place to live. The tenant did not pay the rent and did not move from the rental unit, but applied for dispute resolution under file number 781399 to dispute the 10 day notice and then cancelled the application with the Residential Tenancy Branch and moved from the rental unit on or about October 24 or 25, 2011.

Analysis

In the absence of any evidence to the contrary, I accept the testimony of the landlord that the tenant is in arrears of rent for the entire months of March through October, 2011. I find that the landlords' notice to end the tenancy issued on October 2, 2011 states that the tenant failed to pay rent in the amount of \$9,800.00 that was due on October 1, 2011 and that amount is for exactly 7 months; March through September, 2011. The tenant disputed that notice, however withdrew the application prior to the hearing date. The tenant further failed to pay any rent for the month of October, 2011, and I find that the landlords are entitled to a monetary order for 8 months, or \$11,200.00. The landlords are also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, the landlords' application for an Order of Possession for landlord's use of property and the landlords' application for an Order of Possession for unpaid rent or utilities are hereby dismissed as withdrawn.

I hereby grant a monetary order in favour of the landlords in the amount of \$11,300.00 pursuant to Section 67 of the *Residential Tenancy Act*. This order is final and binding on the parties 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: November 08, 2011.

Residential Tenancy Branch