



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MND, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with a landlord's application for an Order of Possession for landlord's use of property and a Monetary Order for damage to the unit; damage or loss under the Act, regulations or tenancy agreement; and, authorization to retain the security deposit. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary and Procedural Matters

In filing the application the landlord requested compensation in the amount of \$5,000.00 from the tenants. At a later date, the landlord submitted a Monetary Order worksheet requesting compensation of \$2,000.00 for unpaid rent and \$2,046.70 for damage and cleaning, among other things.

At the commencement of the hearing I determined the tenants are still residing in the rental unit and the landlord indicated that the Notice to End Tenancy and request for Order of Possession are of priority. For disputes to be combined on a single application they must be sufficiently related. I found that the claims for damage and cleaning are not sufficiently related to the main issue. Therefore, I proceeded to deal with the issues related to the Notice to End Tenancy and dismissed the landlord's monetary claims for damage and cleaning with leave to reapply.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for landlord's use of property?
2. Is the landlord entitled to collect rent for the month of June 2012?

Background and Evidence

The following information was undisputed by the parties:

- The month-to-month tenancy commenced April 1, 2011;
- The tenants paid a \$1,000.00 security deposit and are required to pay rent of \$2,000.00 on the 1st day of every month;
- On April 30, 2012 the landlord personally served the female tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property (the Notice) with a stated effective date of June 30, 2012;
- The tenants did not file to dispute the Notice; and,
- The tenants have not paid rent for June 2012.

It was also undisputed that the male tenant's first name is incorrect on the Notice. Both parties agreed to amend the Notice to correctly reflect the male tenant's name.

The tenant did not object to the landlord's request for an Order of Possession and stated that new living accommodation has been secured starting June 15, 2012.

During the hearing both parties agreed to meet at the rental unit on June 30, 2012 at 1:00 p.m. for purposes of returning possession to the landlord and participating in a move-out inspection together. The tenant may be represented or accompanied by an agent.

Analysis

Where a tenant receives a 2 Month Notice and does not dispute the Notice the tenant is conclusively presumed to have accepted the tenancy will end on the effective date of the Notice. Based upon the undisputed Notice, as amended, I provide the landlord with an Order of Possession as requested. The Order of Possession requires the tenants, and all other occupants of the rental unit, to return vacant possession of the property to the landlord at 1:00 p.m. on June 30, 2012. To enforce the Order the landlord must serve it upon the tenants.

As provided under section 51 of the Act, the tenants are entitled to compensation equivalent to one month's rent for receiving a 2 Month Notice and are entitled to withhold the last month's rent in satisfaction of this compensation. Therefore, the landlord is not entitled to receive rent for the month of June 2012. Therefore, I do not

provide the landlord with a Monetary Order for unpaid rent. Nor do I make any award for recovery of the filing fee paid for this application.

Pursuant to the agreement reached during the hearing, the landlord is now considered to have met her obligation to offer the tenants an opportunity to participate in a move-out inspection.

Conclusion

The tenancy shall end at 1:00 p.m. on June 30, 2012 and the landlord is provided an Order of Possession to that effect.

The landlord is not entitled to receive rent for the month of June 2012 pursuant to section 51 of the Act and no Monetary Order is provided with this decision.

The landlord and tenant have reached an agreement with respect to the date and time for the move-out inspection and the landlord is considered to have met her obligation to offer the tenants such an opportunity.

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 07, 2012.

Residential Tenancy Branch