



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPR, MND, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for damage to the unit – Section 67;
3. A Monetary Order for compensation – Section 67;
4. A Monetary Order for unpaid rent – Section 67;
5. An Order to retain the security deposit – Section 38; and
6. And Order to recover the filing fee – Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

At the onset of the Hearing, It was noted that the 10 day notice to end tenancy for unpaid rent was not filed as evidence and the Landlord was asked whether they wished only to proceed on the one month notice to end tenancy for cause. The Landlord stated that they were prepared to deal with the Notice for Cause. The Landlord was undecided about proceeding on the 10 day notice for unpaid rent. The Tenant stated that no notice to end tenancy for unpaid rent was received by the Tenant and that the Ministry pays the Tenant’s rent directly. As the Landlord did not provide any evidence in relation to the notice to end tenancy for unpaid rent or its service, I dismiss this part of the application. Further, as the tenancy had not ended, I find that the Landlord’s application

in relation to damages to the unit is premature and I dismiss the claims in relation to damages to the unit and compensation with leave to reapply.

Issue(s) to be Decided

Is the Notice to End Tenancy for Cause valid?

Is the Landlord entitled to an Order of Possession?

Background and Evidence

On January 22, 2013, the Landlord personally served the Tenant with a 1 Month Notice to End Tenancy for Cause (the "Notice"). The Notice has an effective date of February 22, 2013. The Tenant has not filed an application to dispute the Notice and has not moved out of the unit. The Tenant states that she was undecided about disputing the Notice and was too late to make an application to dispute the Notice. The Tenant states that she does not dispute that the tenancy will end.

Analysis

Section 53 of the Act provides that where a landlord gives notice to end a tenancy effective on an incorrect date, the notice is deemed to be changed to the earliest date that complies with the Act. Accordingly, the effective date of the Notice is automatically adjusted to February 28, 2013.

Section 47 of the Act requires that upon receipt of a Notice to end Tenancy for Cause, the tenant may, within ten days of receiving the notice, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the Notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the unit by that date.

Based on the undisputed evidence of the Parties I find that the Tenant was served with the Notice and I find the Notice to be valid. The Tenant has not filed an application to dispute the notice and must vacate the unit by February 28, 2013. Given these facts, I

find that the Landlord is entitled to an **Order of Possession effective 1:00 p.m. February 28, 2013**. As the Landlord has been successful, I find that the Landlord is entitled to recovery of the **\$50.00** filing fee and I order the Landlord to retain \$50.00 from the security deposit.

Conclusion

I Grant an Order of Possession effective 1:00 p.m. February 28, 2013 to the Landlord.

I Order the Landlord to retain \$50.00 from the security deposit.

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: February 20, 2013

Residential Tenancy Branch

