



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Affordable Housing Charitable Association
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent and to recover the RTB filing fee.

Both the landlord and tenant attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The tenancy agreement signed by the parties on January 17, 2012 indicates the tenancy started February 1, 2012. The rent is specified as \$1,500.00 per month payable in advance on the first day of the month, but the parties agree the tenant's rent is subsidized and she is responsible to pay \$934.00 monthly. The tenant also paid a security deposit of \$450.00.

The landlord gave evidence that the tenant was served with a notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the tenant's door on June 3, 2014. Section 90 specifies that a document served in this manner is deemed to be received three days later. The Notice states the tenant failed to pay rent of \$934.00 that was due June 1, 2014, and specifies an effective date of June 13, 2014. The landlord gave evidence that the tenant also owed an additional \$40.00 from a previous month, but this was not included on the Notice.

The landlord gave evidence that the tenant made two further payments following the Notice. On July 3, 2014, the tenant made a payment of \$944.00 and on July 7, 2014, the tenant made a payment of \$964.00. The landlord states that these payments were applied to June and July rent and to the \$40.00 previously outstanding. The landlord gave evidence that the tenant has not paid any rent for August 2014.

The tenant agrees with the landlord's evidence regarding the amounts outstanding and the timing of her payments. She proposed a payment plan to continue her tenancy and gradually pay her August 2014 rent, however the landlord declined. The landlord did agree that the order of possession will be effective on August 31, 2014 at 1 p.m. (rather than 48 hours after service).

Analysis

I find the tenant received the Notice on June 6, 2014. I accept the evidence of both parties regarding the tenant's rent payments on July 3 and July 7, 2014.

According to Section 46(5), if a tenant does not pay the outstanding rent in full or make application for dispute resolution within five days of receiving 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. In this case, the tenant did not pay the outstanding rent or apply to dispute the Notice within five days. For that reason, I find that the landlord is entitled to an order of possession. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I accept the parties' evidence that the tenant continues to occupy the rental unit. For that reason, I find the landlord is entitled to an order for unpaid rent of \$934.00 for the month of August 2014. The landlord is also entitled to recover the RTB filing fee of \$50.00.

The total amount due the landlord is \$984.00. I order that the landlord retain the security deposit of \$450.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$534.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective August 31, 2014 at 1 p.m. and a monetary order of \$534.00.

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: August 25, 2014

Residential Tenancy Branch

