



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit. The landlord testified that he served the tenant with the application for dispute resolution and notice of hearing (the "Hearing Documents") via registered mail. When the documents were returned to the landlord unclaimed, he personally served them on the tenant on September 25. I found that the tenant received the Hearing Documents and the hearing proceeded in his absence.

Issues 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 landlord's undisputed evidence is as follows. The tenancy began on June 1, 2013 at which time the tenant paid a \$450.00 security deposit. The tenant is obligated to pay \$888.00 per month in advance on the first day of the month and failed to pay rent in the months of June, July and August. On August 2, the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent (the "Rent Notice") by sending it to the rental unit via registered mail. The tenant did not pay the arrears or dispute the Rent Notice and did not vacate the unit. The tenant further failed to pay rent in the months of September and October.

On August 29, the landlord served the tenant with a one month notice to end tenancy for cause (the "Cause Notice") by placing it in the tenant's mailbox. The tenant did not dispute the Cause Notice.

The landlord seeks to recover rental arrears and lost income for the months of June – October inclusive and also seeks to recover the \$50.00 filing fee paid to bring this application. The landlord also claims unpaid utilities which are in the name of the tenant and have not been paid. He testified that the city will charge the owner directly if the utilities are not paid by the end of the year.

Analysis

I find that the tenant has been served with both the Rent Notice and the Cause Notice and has not disputed either notice. I find that the tenancy is conclusively presumed to have accepted that the tenancy ended on the effective dates of the notices and I find that the landlord is entitled to an order of possession. I enclose a formal order which is enforceable through the Supreme Court.

I find that the landlord is entitled to recover rental arrears from June 2013 – September 2013 inclusive and I award the landlord \$3,552.00. As the hearing was held on October 3 and the tenant had still not relinquished possession, I find it likely that the landlord will not be able to re-rent the unit until October 15 at the earliest and accordingly I find that the landlord should recover \$444.00 in lost income and I award him that sum. The claim for the balance of October's income is dismissed with leave to reapply in the event the landlord is not able to re-rent the unit in October.

I dismiss with leave to reapply the claim for unpaid utilities. The landlord has not yet paid these utilities and it is still possible that the tenant could satisfy that debt.

As the landlord has been substantially successful in his claim, I find he should recover the filing fee and I award him \$50.00.

I note that the tenant was also served with a 2 month notice to end tenancy for the landlord's use of the property (the "Use Notice"). As the tenancy has ended pursuant to the Rent Notice and the Cause Notice rather than the Use, I find that the tenant will not be entitled to any compensation under section 51.

Conclusion

The landlord has been awarded \$4,046.00 which represents 4 months of rental arrears, one half month of lost income and the filing fee. I order the landlord to retain the \$450.00 security deposit in partial satisfaction of the claim and I grant him a monetary order under section 67 for the balance of \$3,596.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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: October 03, 2014

Residential Tenancy Branch

