



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Belmont Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF, CNR, ERP, OLC, RP

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord(s). Both files were heard together.

The tenant's application is a request to cancel a Notice to End Tenancy that was given for nonpayment of rent, a request for a monetary order for \$1425.00, a request for an order for repairs and emergency repairs, and a request for recovery of the filing fee.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a monetary order for outstanding rent, and a request for recovery of the filing fee.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties and the witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All parties were affirmed

Further, at the beginning of the hearing the tenant stated that she has not been able to locate her advocate, and therefore he will not be participating today however she is willing to proceed with the hearing without her advocate. She did not request any adjournment.

Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the tenant has put on her application. For claims to be combined on an application they must related.

Not all the claims on the tenant's application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with the tenants request to cancel a notice to end tenancy, and a request for recovery of her filing fee, and I dismiss the remaining claims with liberty to re-apply.

I also deal with the landlords request for an Order of Possession and their request for outstanding rent and their filing fee.

Background and Evidence

The parties agree that this tenancy began on June 1, 2015 with a monthly rent of \$1425.00, due on the first of each month.

The landlords testified that the tenant failed to pay the full November 2015 rent and therefore on November 12, 2015 the tenant was personally served with a 10 day Notice to End Tenancy.

The landlords further testified that the tenant has still failed to pay the full November 2015 rent and has paid no rent whatsoever for the months of December 2015, January 2016, and February 2016 and therefore they are requesting an Order of Possession for 1:00 PM on February 29, 2016.

The landlords further testified that they are requesting a monetary order as follows:

November 2015 rent outstanding	\$800.00
December 2015 rent outstanding	\$1425.00
January 2016 rent outstanding	\$1425.00
February 2016 rent outstanding	\$1425.00
Filing fee	\$50.00
Total	\$5125.00

The tenant testified that she has given the landlord a cheque for the full outstanding rent for the month of November 2015 however the landlord refuses to cash it.

The tenant further testified that she also believes that the landlord was given some money for the month of December 2015 however since her advocate is not available she does not know what the amount is.

The tenant further stated that two cheques were put in the landlord's mailbox this past weekend that cover the rest of the outstanding rent.

The tenant is therefore requesting that the Notice to End Tenancy be canceled and that the landlords request for a monetary claim be denied.

In response to the tenants testimony the landlords testified that they never received the cheque that the tenant claims to have given them for the remainder of November 2015 rent, and they have received no rent monies at all for the months of December 2015, January 2016, and February 2016, and therefore the full amount of rent they have claimed is still outstanding.

With respect to the tenants claim that two cheques had been put in the landlord's mailbox this weekend, the building manager/witness testified that he has not yet checked the mailboxes.

Analysis

All parties agree that the tenant received the 10 day Notice to End Tenancy by hand on November 12, 2015.

It is my finding that the landlord has shown that the tenant has failed to pay the outstanding rent for \$800.00 for the month of November 2015, and has failed to pay any rent for the months of December 2015, January 2016, and February 2016 for a total of \$5075.00. I therefore allow the landlords request for an Order of Possession for 1:00 PM on February 29, 2016.

The tenant claims to have sent a rent cheque to the landlords for the outstanding November 2015 rent; however I accept the landlord's testimony that that cheque was ever received. I find it very unlikely, had the cheque been received, that the landlords would have failed to cash it.

Further, although the tenant claims some rent was paid for the month of December 2015, she has absolutely no evidence in support of that claim, and could not even state what amount was paid.

The tenant has also failed to prove that any cheques were put in the landlord's mailbox over the weekend.

It is my decision therefore that I will be issuing an Order for the tenant to pay the full \$5075.00 in outstanding rent, plus the landlords filing fee of \$50.00, for a total of \$5125.00.

The tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

I gave my decision verbally at the hearing and at that time the tenant attempted to argue that she had not received the landlords notice of hearing within the required timeframe, however in my previous interim decision, I ordered that the landlord could re-serve the notice of hearing and hearing package to the tenant, and the landlord has provided evidence to show that they complied with that order.

Conclusion

The tenant's full claim is dismissed without leave to reapply, except for the monetary claim which I have dismissed with leave to reapply.

As stated above, I have issued an Order of Possession to the landlord for February 29, 2016 and I have issued a monetary order in the amount of \$5125.00.

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: February 22, 2016

Residential Tenancy Branch

