



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes:

MNR

OPR

MNSD

FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated December 2, 2008, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

The landlord testified that the Notice of Hearing was served in person to the tenant on December 19, 2008. However, the tenant did not appear.

Issue(s) to be Decided

The landlord is seeking an Order of Possession. The landlord is also seeking a monetary order claiming arrears remaining of \$575.00 for January 2009, and \$20.00 late fee owed by the tenant.

The issues to be determined based on the testimony and the evidence are:

Whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent dated December 2, 2008.

Whether or not the landlord is entitled to monetary compensation for rental arrears owed.

Whether or not the landlord is entitled to late fees of \$20.00

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated December 2, 2008 with effective date of December 13, 2008, and a copy of the tenancy agreement. Pursuant to the Act, the effective date of the notice would be changed to December 15, 2008 as the notice was posted on the tenant's door, which is deemed three days for service. The landlord testified that the tenancy began on May 15, 2008, and the tenant paid a security deposit of \$355.00 on April 23, 2008. The landlord testified that the tenant fell into arrears in December and by January had only paid \$135.00 of the \$710.00 rent for January leaving \$575.00 unpaid plus \$20.00 for late fees. The landlord testified that the tenant was issued a receipt for "use and occupancy only" and that the tenancy was not reinstated. The landlord testified that the tenant has not vacated the unit and the landlord seeks an Order of Possession.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent by posting it on the door. The tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$645.00 comprised of rental arrears and late fee for the month of January 2009 and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit and interest of \$358.68 in partial satisfaction of the claim leaving a balance due of \$286.32.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. .This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the Landlord an order under section 67 for \$286.32. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

January 2009

Date of Decision

Dispute Resolution Officer