



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 January 2, 2009, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on January 21, 2009, 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 unpaid rent of \$670.00 rental arrears.

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

Whether or not the landlord is entitled to monetary compensation for rental arrears owed and loss of rent

Background and Evidence

The landlord testified that this tenancy began on June 1, 2007, at which time a security deposit of \$325.00 was paid and the current rent is \$670.00 per month. The landlord submitted into evidence proof of service of the Notice of Hearing, a copy of the 10-Day Notice to End Tenancy dated January 2, 2009 with effective date of January 12, 2009, a copy of a receipt for payment of January's rent received partly on January 23, 2009 and the remainder on January 30, 2009 marked for "use and occupancy only". The landlord testified that an Order of Possession is still being sought. The landlord testified that the tenant is still in arrears as rent for February of \$670.00 has not been paid.

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 did not pay the outstanding rent within 5 days 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 \$720.00 comprised of \$670.00 rental arrears for the month of February and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit and interest of \$332.77 in partial satisfaction of the claim leaving a balance due of \$378.23.

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 \$378.23. 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.

February, 2009

Date of Decision

Dispute Resolution Officer