



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 3, 2009, a monetary order for rent and an order to retain the security deposit. Both parties appeared and each gave testimony in turn

Issue(s) to be Decided

At the outset of the hearing, the parties advised that all arrears had been paid in full on January 15, 2009. The landlord was therefore not seeking a monetary order for rental arrears. However, the application for an Order of Possession will proceed. The issue to be determined based on the testimony and evidence is:

Whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent

Background and Evidence

The landlord submitted a copy of the 10-Day Notice to End Tenancy dated January 3, 2009 effective January 13, 2009. The landlord testified that the tenant paid arrears of \$134.34 on January 15, 2009, after the five-day deadline and it was made clear to the tenant that payment was accepted for use of occupation

only. The landlord has requested that an Order of Possession be issued. The landlord testified that the current invoices for utilities had not yet been received.

The tenant testified that the rent was paid late but that this was beyond the tenant's control. The tenant and pointed out that the rent was often paid early and that there was usually a credit on the rent account. The tenant stated that, other than the recent rent deficiency, the tenancy was unmarred and she hoped that the landlord would reconsider and permit the tenancy to continue.

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 five 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.

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.

The landlord is also entitled to be reimbursed for the \$50.00 paid for this application which will be retained from the security deposit and interest of \$530.03. The remainder of the security deposit of \$480.03 must be dealt with in compliance with section 38 of the Act.

February, 2009

Date of Decision

Dispute Resolution Officer