



Dispute Resolution Services

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

Both parties appeared and gave testimony in turn.

Issue(s) to be Decided

The landlord is seeking a monetary order claiming rental arrears of \$1,900.00 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 monetary compensation for rental arrears owed or loss of rent.

Whether or not the landlord is entitled to retain the security deposit and pet damage deposit to set off any debt owed

Background and Evidence

The landlord testified that the tenancy began December 1, 2008 . The rent was set at \$950.00 and a security deposit of \$450.00 was paid. The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated February 2, 2009 with effective date of February 12, 2009. No other evidence was submitted by the landlord. The landlord testified that the tenant did not pay \$900.00 rent for the month of February 2009 and was issued a Notice to End Tenancy. The landlord testified that the tenant did not pay rent of \$900.00 for March 2009 and did not vacate the unit.

The landlord is seeking an Order of Possession and is claiming \$1,900.00 monetary compensation for rent owed and seeking to retain the \$450.00 security deposit as partial payment for the arrears owed.

The tenant testified that rent was owed for February and for March 2009, but that the tenant had not paid because the landlord normally comes to collect the rent and he never arrived and the tenant could not reach the landlord by phone and did not know where to send cheques. The tenant acknowledged that he failed to note the contact address of the landlord on the Notice. The tenant stated that he has the rent and is ready to pay the arrears.

The landlord stated that if the tenant caught up on the arrears and filing fee right away, the landlord would consider reinstating the tenancy. The tenant agreed.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent, 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 is entitled to a total monetary claim of \$1,950.00 comprised of \$950.00 rent for the month of February 2009, \$950.00 rent for March 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 \$450.57 in partial satisfaction of the claim leaving a balance due of \$1,499.43.

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 \$1,499.43. 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.

March, 2009

Date of Decision

Dispute Resolution Officer