



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 Ten Notice to End Tenancy for Unpaid Rent dated December 5, 2008 and the One-Month Notice to End Tenancy for Cause for Repeated Late Payment of Rent dated December 18, 2008. The landlord was also seeking a monetary order for rent owed.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on January 21, 2009, the tenant did not appear

Issue(s) to be Decided

The landlord was seeking an Order of Possession. The landlord is also seeking a monetary order claiming unpaid rent of \$995.00 each month for December 2008, January 2009, and February 2009. The landlord was also seeking \$995.00 loss of rent for the month of March 2009. 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 and the One-Month Notice to End Tenancy for Repeated Late Payment of Rent.

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

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated December 5, 2009 with a purported effective date of December 15, 2009, a copy of the One-Month Notice dated to End Tenancy for Cause dated December 18, 2008, copies of past Notices issued to the tenant for unpaid rent and a copy of the tenancy agreement.

The landlord testified that since December 2008, the tenant has accrued arrears of \$3,980.00 including \$995.00 rent unpaid for December 2008, \$995.00 rent unpaid for January 2009, \$995.00 rent unpaid for February 2009 and \$995.00 rent unpaid for March 2009. The landlord testified that the tenancy began on April 15, 2008 and the tenancy agreement verified that the tenant paid a security deposit of \$497.50. The landlord testified that both a Ten-Day Notice to End Tenancy for Unpaid Rent and a One-Month Notice to End Tenancy for Cause due to repeated late payment of rent were issued, but the tenant has not vacated the unit. The landlord has requested an Order of Possession..

Analysis

Based on the testimony of the landlord, I find that the tenant was personally served with a Notice to End Tenancy for Unpaid Rent on December 5, 2008. 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 is entitled to receive compensation for rental arrears and I find that the landlord has established a total monetary claim of \$3,980.00 comprised of \$995.00 rental arrears for the month of December 2008, \$995.00 rental arrears for the month of January 2009, \$995.00 rental arrears for the month of February 2009 and \$995.00 rent now owed for March 2009. I order that the landlord retain the security deposit and interest of \$502.82 in partial satisfaction of the claim leaving a balance due of \$3,477.18.

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 \$3,477.18 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