



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 3, 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 in person on February 19, 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 \$500.00 still owed but unpaid as of this date.

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.

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated February 3, 2009 with effective date of February 13, 2009 and a copy of the tenancy agreement. The landlord testified that the tenancy began on May 1, 2008, with rent of 725.00 at which time the tenant paid a security deposit of \$362.50. The landlord testified that the tenant failed to pay rent for the month of February, 2009 and that the landlord then issued a Notice to End Tenancy based on unpaid rent. However, the tenant did pay the rent owed in full, after the five-day deadline to cancel the notice and therefore the Notice was still in effect. The landlord testified that the tenant paid rent for March 2009 and part of April 2009. The landlord testified that the tenancy was not reinstated because the tenant was issued receipts "for use and occupation only". The landlord testified that the tenant was still in arrears for \$550.00 and a monetary order is being sought for this debt.

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 is entitled to receive rental arrears for the month of April 2009 in the amount of \$550.00 and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit and interest of \$366.14 in partial satisfaction of the claim leaving a balance due of \$233.86.

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 \$233.86. 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.

April 2009_

Date of Decision

Dispute Resolution Officer