



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes

OPR, MNR, MNSD, & FF

Introduction

This hearing dealt with an application by the landlord seeking an Order of Possession and a monetary claim due to non-payment of rent by the tenant. The landlord also seeks to retain the tenant's security deposit plus interest in partial satisfaction of this claim.

The landlord stated that the tenant was served with notice of this application and hearing when it was served upon him in person on February 20, 2009. Although served with notice the tenant did not appear for the hearing and I proceeded with the hearing in the tenant's absence.

Issues to be Determined

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent and utilities; to keep all or part of the security deposit; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution.

Background and Evidence

This tenancy began on approximately April 1, 2008 for the monthly rent of \$925.00 and a security deposit of \$412.50. The landlord served the tenant with a 10 day Notice to End Tenancy, in person, on February 9, 2009 due to \$2,775.00 in unpaid rent and \$373.97 in unpaid utilities. The tenant had failed to pay any rent or utilities since November 2008.

The landlord stated that the tenant made a partial payment of \$1,320.00 on February 23, 2009 and a payment of \$925.00 on March 30, 2009 towards rent but as of the date of this hearing the tenant still owed \$2,380.00 in rent. The landlord did not provide any copies of the utilities and withdrew that portion of her application.

The landlord requested an Order of Possession due to the tenant's failure to pay rent and requested a monetary Order for the outstanding rent owed of \$2,380.00.

Analysis

I accept that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent by February 9, 2009 in person. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy or pay the rent owed within five days.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. I find that the landlord is entitled to an Order of Possession 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 find that the landlord is entitled to monetary compensation under section 67 in the amount of **\$2,430.00** comprised of \$2,380.00 rent owed and the \$50.00 fee paid by the Landlord for this application. I order that the landlord may retain the deposit and interest held of \$417.15 in partial satisfaction of the claim and grant an order for the balance due of **\$2,012.85**. 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.

Conclusion

The landlord's application is granted and I have issued an Order of Possession and a monetary Order to the landlord due to the tenant's failure to pay rent. I dismiss the landlord's monetary claim for utilities with leave to re-apply.

Dated April 08, 2009.

Dispute Resolution Officer