



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

MNR

OPR

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 May 23, 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 June 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 \$528.00 for May 2009, \$720.00 each month for June and July 2009, parking fees of \$20.00 for June and July 2009 and \$75.00 for late fees.

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 and loss of rent.

Whether the landlord is entitled to late fees under the tenancy agreement.

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated May 23, 2009 with effective date shown as May 23, 2009, a copy of the tenancy agreement and the tenant's application for tenancy and copies of a security deposit cheque for \$360.00 and a rent cheque for \$528.00 both of which were returned for insufficient funds. The landlord testified that after the tenant's cheque for the security deposit and the tenant's rent cheque for May 2009 were returned by the bank a Ten-Day Notice to End Tenancy for Unpaid Rent was issued. The landlord testified that just before the hearing package arrived, the tenant gave the landlord a cheque for all monies owed for rent for May and June 2009 and the landlord had considered cancelling the hearing. However, when this cheque also failed to clear, the landlord served the Notice of Dispute Resolution Hearing. The tenant has not paid and has not vacated the unit and therefore the landlord is now seeking both an Order of Possession and a monetary order for \$2,083.00.

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. 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 has established a total monetary claim of \$2,133.00 comprised of \$528 rental arrears for the month of May 2009, \$740.00 rental and parking arrears for the month of June 2009, and \$740.00 rental and parking

arrears for the month of July 2009, \$75.00 for three late fees for May, June and July 2009 and the \$50.00 fee paid by the landlord for this application.

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 \$2,133.00. 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.

July, 2009

Date of Decision

Dispute Resolution Officer