



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 May 4, 2009, a monetary order for rent owed and an order to retain the security deposit and pet damage deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on June 6, 2009, the tenant did not appear.

Issue(s) to be Decided

The landlord is seeking an Order of Possession and a monetary order claiming unpaid rent 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 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 or not the landlord is entitled to late fees

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated May 4, 2009. The landlord testified that the tenancy began on September 1, 2008 at which time the tenant paid a security deposit of \$524.00 and pet damage deposit of \$524.00. The landlord testified that the tenant failed to pay \$1,073.01 rent owed on the first of May 2009 and the Ten-Day Notice was issued. The landlord testified that the tenant did not pay the arrears within five days and that the arrears continued into June and July 2009 as well. However, the tenant has since made some payments for which a receipt for "Use and Occupancy only" was issued. The landlord testified that a payment plan is in effect and the landlord may consider re-instating the tenancy if the tenant adheres to the payment schedule. The current outstanding arrears are \$1,596.00. The landlord is seeking a monetary order for this amount and an Order of Possession effective July 31, 2009.

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 failed to pay the outstanding rent within five 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 accumulated rental arrears as of this date in the amount of \$ 1,646.00 comprised of \$1,596.00 and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security

deposit and interest of \$526.62 and the pet damage deposit and interest of \$526.62 in partial satisfaction of the claim leaving a balance due of \$592.76.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective July 31, 2009. 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 \$592.76. 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