Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DIRECT REQUEST DECISION

Dispute Codes

OPR, MNR, MNSD, FF

Introduction

The Hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 16, 2009 at 7:00 p.m., the landlord personally served the tenant with the Notice of Direct Request Proceeding in front of a witness. Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for rental arrears, to retain the security deposit from the tenant and reimbursement for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act (the Act).* I have reviewed all documentary evidence.

Proof of Service of 10 Day Notice to End Tenancy

The landlord submitted a copy of the Application for Dispute Resolution and a "Proof of Service" form stating that the Ten-Day Notice to End Tenancy, was served in person to the tenant at 10:53 a.m. on July 6, 2009 and witnessed .

The purpose of serving documents under the *Act* is to notify the person being served of their failure to comply with the Act and of their rights under the *Act* in response. The landlord, seeking to end the tenancy due to this breach has the burden of proving that the tenant was served with the 10 day Notice to End Tenancy and I find that the landlord has met this burden.

Analysis

The landlord submitted into evidence proof of service, a copy of the tenancy agreement signed on June 20, 2007 and indicating that a security deosit was paid in the amount of $425.00, and a copy of the Ten-Day Notice to End Tenancy dated July 6, 2009 and showing arrears of $4,900.00.

Based on the testimony of the landlord, I find that the tenant was 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 is entitled to receive rental arrears for March and has established a total monetary claim of $4,950.00 comprised of $$650.00 rental arrears for part of the month of March 2009, $850.00 for April, $850.00 for May 2009, $850.00 for June 2009 and $850.00 for July 2009 and the $50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit and interest of $ 434.84 in partial satisfaction of the claim leaving a balance due of $4,515.16.

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 $4,515.16. 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