



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

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 related to non-payment of rent by the tenant. Although the tenant was served in person with notice of this proceeding and the landlord's application on May 22, 2009 at approximately 6:00 p.m. he did not appear. I proceeded with the hearing in the tenant's absence.

Issues(s) to be Decided

Has the landlord established a monetary claim related to non-payment of rent? Is the landlord entitled to retain the tenant's security deposit plus interest in partial satisfaction of this claim?

Background and Evidence

This tenancy began on approximately April 1, 2004 and ended after the tenant vacated the unit on June 1, 2009. The landlord stated that the tenant paid a security deposit of \$350.00.

On May 9, 2009 the tenant was served with a 10 Day Notice to End Tenancy due to Unpaid Rent. The landlord no longer requires an Order of Possession.

The landlord provided an account ledge which documents the rent received and owed since August 2006 and copies of five 10 day Notices to End Tenancy due to Unpaid Rent served on the tenant. The landlord acknowledged that he has been accommodating and attempting to assist the tenant due to his financial difficulties.

Around May 21, 2009 the landlord stated that the tenant approached with enough money to cover the rent owed for May and June 2009; however, the landlord informed the tenant that he would not reinstate the tenancy and would still be seeking an Order of Possession due to the tenant's failure to pay the rent. The landlord stated that the current rental arrears are for the sum of \$2,313.84 to the end of June 2009.

Analysis

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. 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 accept the landlord's evidence that the tenant vacated as of June 1, 2009 and that an Order of Possession is no longer necessary.

I accept, in the absence of any evidence or response from the tenant, the documented evidence provided by the landlord which demonstrates that the tenant is in rental arrears for the sum of \$2,363.84 including the recovery of the filling fee paid for this application. From this sum I Order that the landlord may retain the tenant's security deposit plus interest of \$362.40 in partial satisfaction of this claim. I grant the landlord a monetary Order for the remaining balance owed of **\$2,002.44**.

Conclusion

The landlord's application is granted and a monetary Order issued due to non-payment of rent by the tenant.

Dated: July 15, 2009.

Dispute Resolution Officer