



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession, a Monetary Order for unpaid rent, an Order to keep all or part of the security deposit and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with s. 89 of the *Act*, sent via registered mail on June 16, 2009. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on June 21, 2009, the fifth day after they were mailed as per s. 90(a) of the *Act*.

The landlords agent appeared, gave her testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form.

There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Whether the landlord is entitled to an Order of Possession?
- Is the landlord entitled to keep all or part of the security deposit and interest?



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

- Whether the landlord is entitled to a Monetary Order to recover the unpaid rent and filing fee?

Background and Evidence

This tenancy started on October 01, 2005. Rent for this unit is \$321.00 per month due on the 1st of each month. The tenant did not pay rent when it was due on May 01, 2009 of \$321.00 and the landlord issued a 10 Day Notice to End Tenancy for unpaid rent on May 28, 2009. This was posted on the tenant's door and is deemed to have been served three days after the day it was posted. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on June 07, 2009. The tenant did not pay the outstanding rent or dispute the Notice within five days. The tenant did not pay rent for June, 2009 of \$321.00 and since the landlord filed her application the tenant also owes rent for July, 2009. The landlord has requested to amend her application to include a Monetary Order for rent arrears for July. I have allowed this request.

The landlord believes that the tenant has now abandoned the rental unit. A notice to inspect the property was posted on the tenants' door on July 06 giving Notice to enter the unit on July 10 between 11am and 3pm. After this inspection the landlord states that the tenant still has some personal belongings in the unit but she has not been seen at the unit for over one month. The landlord will attempt to contact the tenant by telephone to determine if the rental unit has been abandoned pursuant to s. 24(2)(a).

Analysis

The tenant did not appear at the hearing, despite having been sent a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that the landlord is entitled to recover rent arrears for May, June and July, 2009 of \$963.00. I

order the landlord pursuant to s. 38(4) of the Act to keep the tenant's security deposit in partial payment of the rent arrears.

As the landlord has been successful in this matter, they are also entitled to recover the \$50.00 filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlord will receive a monetary order for the balance owing as follows:

Outstanding rent for May, June and July	\$963.00
Less security deposit and accrued interest	(-\$372.75)
Total amount due to the landlord	\$640.25

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to s. 88 of the *Residential Tenancy Act*. 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 pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under s. 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$640.25**. The order must be served on the tenant and is enforceable through the Provincial Court as an order of that Court.



Dispute Resolution Services

Page: 4

Residential Tenancy Branch
Ministry of Housing and Social Development

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 tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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*.

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*.

Dated: July 21, 2009.

Dispute Resolution Officer