



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 July 2, 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 by registered mail sent on July 26, 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 and late fees 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 of \$25.00 per month

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated July 2, 2009 with effective date of July 15, 2009, a copy of the tenancy agreement signed in December 2008, a copy of a previous dispute resolution decision dated June 3, 2009 and proof of service through a registered mail tracking slip. The landlord testified that the tenancy began on December 1, 2008, at which time the tenant paid a security deposit of \$400.00. The landlord testified that the tenant had failed to pay \$800.00 rent for each of the months of July, August and September 2009, amounting to a total of \$2,400.00. The landlord testified that when the tenant fell into arrears again in July 2009, a Ten-Day Notice was issued on July 2, 2009 and served on the tenant on July 2, 2009 by posting it on the door. The landlord testified that in addition to the \$800.00 rent owed for each month, the tenant also owes \$75.00 as the tenant is required under the tenancy agreement to pay late fees of \$25.00 per month. The total claim by the landlord is \$2,475.00. The landlord testified that the tenant has not vacated the unit and the landlord has requested an Order of Possession..

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 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 \$800.00 rent for July 2009, \$800.00 rent for the month of August 2009 and \$800.00 rent for the month of September 2009. In regards to the late fees, I find that the landlord is entitled to \$25.00 for each month of July, August and September 2009. I find that the landlord has established a total monetary claim of \$2,525.00 comprised of \$2,400.00 rental arrears, \$75.00 late fees and the \$50.00 fee paid by the landlord for this

application. I order that the landlord retain the security deposit and interest of \$400.00 in partial satisfaction of the claim leaving a balance due of \$2,125.00.

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 \$2,125.00. 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.

September 2009

Date of Decision

Dispute Resolution Officer