



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 the landlord's request for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, retention of the security deposit and recovery of the filing fee. The tenant did not appear at the hearing. The landlord testified that he sent notice of today's hearing to the tenant by registered mail addressed to the rental unit. The landlord affirmed that the tenant is still residing in the rental unit and provided a tracking number as evidence of the registered mail. Having been satisfied that the landlord adequately served the tenant in accordance with the requirements of the Act, the hearing proceeded without the tenant present.

The landlord withdrew his request for a Monetary Order as the tenant has paid the outstanding rent. The landlord wished to proceed with his request for an Order of Possession.

Issues(s) to be Decided

1. Has the landlord established an entitlement to an Order of Possession?
2. Award of the filing fee.

Background and Evidence

Upon hearing undisputed testimony of the landlord, I make the following findings. The tenant paid a \$375.00 security deposit on July 31, 2009 and tenancy commenced August 1, 2009. The tenant is required to pay rent of \$750.00 on the 1st day of every month. On September 3, 2009 the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) when the tenant failed to pay \$550.00 of the rent due for September. The landlord served the Notice upon the tenant by giving it to an adult person who apparently resides with the tenant.

The landlord testified that the tenant paid \$375.00 on September 18, 2009 and \$175.00 on September 27, 2009; however, the landlord communicated to the tenant in writing that payment was accepted for occupation and use only and that the tenancy would not be reinstated.



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

The landlord provided a copy of the 10 Day Notice as documentary evidence for the hearing. The effective date on the Notice is September 13, 2009.

Analysis

Where a tenant receives a 10 Day Notice, the tenant has five days to pay the outstanding rent or dispute the Notice. Otherwise, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. In this case, the tenant did not pay the outstanding rent or dispute the Notice within five days of receiving the Notice. I am also satisfied that the landlord did not reinstate the tenancy in accepting payment from the tenant.

Based on the evidence before me, I am satisfied the tenancy ended on September 13, 2009 and since the tenant continues to occupy the rental unit, the landlord is entitled to an Order of Possession. I provide the landlord with an Order of Possession effective two (2) days after service upon the tenant.

I award the filing fee to the landlord and authorize the landlord to deduct \$50.00 from the tenant's security deposit in satisfaction of this award.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is authorized to deduct \$50.00 from the security deposit to recover the filing fee from the tenant.

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: October 01, 2009.

Dispute Resolution Officer