

DECISION

Dispute Codes MNR, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent August 20, 2009, and deemed served five days later, the Tenant did not appear. I find the Tenant has been duly served under the Act. I note that refusal or neglect to pick up registered mail is not a ground for review under the Act.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on August 5, 2009. The Tenant did not pay all 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.

The Agent for the Landlord testified that the Tenant vacated the rental unit sometime in August of 2009.

The Agent for the Landlord testified the Tenant did not pay rent for August in the amount of \$750.00, had an outstanding amount of rent of \$20.00 for July, was required to pay a late fee of \$25.00, and failed to pay utilities of \$13.77 and hydro of \$14.04.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Although the Landlord is entitled to an order of possession in these circumstances, the Tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant failed to pay rent, late fees, and utilities under the Act and tenancy agreement.

I find the Landlord has established a total monetary claim of **\$872.81** comprised of the amounts described above, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit and interest of **\$375.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$497.81**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant failed to pay rent, was served with a Notice to End Tenancy, did not pay the rent or file to dispute the Notice, and vacated the rental unit.

While an Order of Possession is not required, the Landlord is granted a monetary order for the balance due after keeping the security deposit and interest.

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 09, 2009.

Dispute Resolution Officer