

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The Application originated as a direct request, however, it was adjourned to a participatory hearing.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on September 25, 2009, the Tenant did not appear.

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 in person with a Notice to End Tenancy for non-payment of rent on September 4, 2009. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

Analysis

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

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.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Following the issuance of the Notice to End Tenancy, the Application for Dispute Resolution, and the Notice of Hearing, the Tenant failed to pay rent for the month of October 2009.

I find that the Tenant has also not paid rent for October and the Landlord will suffer a loss of rent for the month. Therefore, I allow the claim to be amended to include one additional month of rent.

I find that the Landlord has established a total monetary claim of **\$1,750.00** comprised of \$1,650.00 for two months rent, two \$25.00 late payment fees and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit and interest of **\$412.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,337.50**.

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 and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an Order of Possession, may keep the security deposit and interest in partial satisfaction of the claim and is granted a monetary order for the balance due.

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 30, 2009.

Dispute Resolution Officer