

DECISION

Dispute Codes MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession and a monetary order.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent September 18, 2009 and deemed served under the Act five days later, 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 and uncontradicted testimony of the Agent for the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of September 2009 rent. The Tenant did not pay all the outstanding rent and did not apply to dispute the Notice. Therefore, the Tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

However, according to the evidence of the Landlord, the Tenant vacated the rental unit on October 27, 2009.

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 September rent under the Act and tenancy agreement.

I find that the Tenant has also not paid rent for October 2009, 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 the Landlord has established a total monetary claim of **\$926.00** comprised of the rent owed for September and October of 2009 (at \$438.00 per month), and the \$50.00 fee paid by the Landlord for this application.

I grant the Landlord an order under section 67 for the balance due of **\$926.00**.

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, and vacated the rental unit. Therefore, an Order of Possession is not required.

The Landlord is granted a monetary order for rent 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: November 03, 2009.

Dispute Resolution Officer