

Decision

Dispute Codes: OPR / OPC / OPB, MNR, MNSD, FF

Introduction

This hearing dealt with an application from the landlord for an order of possession, a monetary order as compensation for unpaid rent, retention of the security deposit, and recovery of the filing fee. Agents for the landlord participated in the hearing and gave affirmed testimony.

The tenant did not attend the hearing. The application for dispute resolution and notice of hearing were sent to the tenant by registered mail, however, information provided by way of Canada Post's on-line tracking indicates that the tenant refused the package. In the result, even while the tenant did not attend, pursuant to section 90 of the Act he is deemed to have been served with the application for dispute resolution and notice of hearing.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy in the above unit began on March 1, 2009. Rent in the amount of \$850.00 is payable in advance on the first day of each month. A security deposit of \$425.00 was collected on March 1, 2009.

Even while the tenancy agreement states that no pets are permitted, the landlord observed during the period from approximately late September to early October 2009 that the tenant owned a dog. As a result, the landlord informed the tenant by letter dated October 20, 2009 that he was required to pay a pet damage deposit by November 1, 2009. The tenant declined to pay the pet damage deposit, and the landlord issued a

1 month notice to end tenancy for cause dated November 4, 2009. The notice was served by posting on the tenant's door on that same date. A copy of the notice was submitted into evidence. The reason shown on the notice for its issuance is as follows:

Residential Tenancy Act only: security deposit or pet damage deposit was not paid within 30 days as required by tenancy agreement.

Further to the above, as the tenant failed to pay rent which was due on November 1, 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated November 19, 2009. The notice was served by posting on the tenant's door on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant made no payment of rent for either November 2009, December 2009 or January 2010, and he is understood to have abandoned the unit sometime in early January 2010. The tenant did not inform the landlord of his forwarding address.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agents, I find that the tenant was served with a 1 month notice to end tenancy for cause dated November 4, 2009. The tenant did not file to dispute the notice within 10 days of receiving it. The tenant is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice.

Further, based on the documentary evidence and undisputed testimony of the landlord's agents, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated November 19, 2009. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant 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.

Pursuant to all of the above, I find that the landlord is entitled to an order of possession. However, in view of the tenant's apparent abandonment of the unit, the landlord

withdrew the request for an order of possession which was included in the original application.

As for the monetary order, I find that the landlord has established a claim of \$2,600.00. This is comprised of \$2,550.00 in unpaid rent combined for the three months of November 2009, December 2009 and January 2010 (3 x \$850.00), in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$425.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,175.00 (\$2,600.00 - \$425.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$2,175.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 8, 2010

Dispute Resolution Officer