



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes - OPR, OPC, OPB, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession due to unpaid rent, breach of the tenancy agreement and cause and a monetary order for unpaid rent

The landlord attended the teleconference call. The tenant did not attend.

The landlord confirmed service of the Notice of Hearing on the tenant via registered mail on December 30, 2009.

At the onset of the hearing the landlord stated the tenant moved out on January 5, 2010 and she no longer requires an Order of Possession. I have amended the application to reflect this change.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary Order for unpaid rent and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 46, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on October 30, 2009 for a 4 month fixed term tenancy beginning on November 1, 2009 for the monthly rent of \$1,200.00 due on the 1st of the month and a security deposit of \$600.00 was paid by cheque, later determined insufficient funds; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 22, 2009 with an effective vacancy date of January 1, 2010 due to \$200.00 unpaid rent.

Documentary and testimonial evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the month of December, 2009 and January, 2010

and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was served personally to the tenant on December 22, 2009 by her brother.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on December 22, 2009, and the effective date of the notice is January 1, 2010. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that 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.

Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and therefore grant a monetary order in the amount of **\$1,450.00** comprised of \$1,400.00 rent owed and the \$50.00 fee paid by the Landlord for this application.

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

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: February 04, 2010.

Dispute Resolution Officer