



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes - OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

The hearing was conducted via teleconference and was attended by the landlord's agent. The landlord confirmed service of the Notice of Hearing was provided both via registered mail sent January 8, 2010 and in person during the week of February 8-12, 2010.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 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 July 6, 2009 for a month to month tenancy beginning on August 1, 2009 for the monthly rent of \$1,200.00 due on the 1st day of the month and a security deposit of \$600.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 4, 2009 with an effective vacancy date of December 14, 2009 due to \$1,200.00 unpaid rent.

Documentary and testimonial evidence provided by the landlord indicates that the tenant failed to pay the full rent owed for the month of December, 2009 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was served by posting it to the door of the tenant's rental unit on December 5, 2009.

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. The tenant did pay \$800.00 towards December 2009 rent on December 9, 2009 and the remaining \$400.00 was paid on January 1, 2010.

The landlord further testified the tenant also paid \$400.00 towards January 2010 rent on January 1, 2010, then a payment of \$300.00 on January 11, 2010 and \$500.00 on January 13, 2010. As well the tenant paid \$400.00 towards February 2010 rent on February 1, 2010 and continues to owe the landlord \$200.00 for outstanding February 2010 rent.

Analysis

I have reviewed all 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 tenant on December 7, 2009 and the effective date of the notice is December 17, 2009. 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 an Order of Possession effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and therefore grant a monetary order in the amount of **\$250.00** comprised of \$200.00 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 15, 2010.

Dispute Resolution Officer