

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent. The tenant did not attend.

Issues(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 tenants 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 tenancy began on January 6, 2010 as a one year fixed term tenancy for a monthly rent of \$1,085.00 due on the 1st of the month, with a security deposit of \$542.50. The landlord submitted into evidence a 10 Day Notice to End Tenancy for Unpaid Rent dated January 21, 2010. The Notice was unsigned by the landlord and did not provide an effective date of the end of the tenancy.

The landlord testified that the tenant paid \$900.00 cash and provided a cheque in the amount of \$750 for a total of \$1,650.00 on January 6, 2010 for rent and the security deposit. The landlord was unable to cash the tenant's cheque as there were insufficient funds.

The landlord testified that the tenant has not provided payment for this outstanding amount or for rent for the months of February and March 2010. The landlord served the 10 Day Notice to End Tenancy by serving it personally to the tenant on January 21, 2010.

Analysis

Section 46 allows a landlord to end a tenancy if rent is unpaid on any day after the day it is due by giving the tenant a notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. The notice given must comply with Section 52 of the *Act*.

Section 52 stipulates that the notice must be signed and dated by the landlord and state the effective date of the notice. As the landlord has failed to sign the notice and provide

an effective date, I find that the 10 Day Notice to End Tenancy issued on January 21, 2010 is ineffective.

As the tenant has not paid rent as is required under Section 26 of the Act, I order the tenant to pay the outstanding rent as described above.

Conclusion

I find the landlord is not entitled to an order of possession and therefore I dismiss this part of the landlord's application, without leave to reapply.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and therefore grant a monetary order in the amount of **\$2,947.50** comprised of \$2,897.50 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: March 16, 2010.

Dispute Resolution Officer