

DECISION

Dispute Codes - OPR, MNR, MNSD, 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 tenant did not attend.

The landlord testified that the Notice of Hearing documents were served personally to the tenant on March 11, 2010 in the morning and was witnessed by a third party.

Based on the verbal testimony of the landlord, I find that the tenant has been served with the Notice of Hearing documents.

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; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began in January 2009 as a 1 year fixed term tenancy and converted to a month to month tenancy on January 1, 2010 for a monthly rent of \$700.00 due on the 1st of the month with a security deposit of \$350.00 paid on December 15, 2008.

The landlord submitted the following evidentiary material:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on March 2, 2010 with an effective vacancy date of March 12, 2010 due to \$400.00 unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the month of March 2010. The landlord testified that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent personally on March 2, 2010. The landlord stated that this service was witnessed by a third party.

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 the 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 March 2, 2010 and the effective date of the notice is March 12, 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 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 in the amount of **\$450.00** comprised of \$400.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$350.24 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$99.76**. 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: April 23, 2010.

Dispute Resolution Officer