

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, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The Application was originally made under the Direct Request procedure, however, it was adjourned to a participatory hearing.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on February 26, 2010, and deemed served five days later under the Act, the Tenant did not appear. I find the Tenant has been served in accordance with the Act.

An Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on February 3, 2010, by posting on the door and this was witnessed by a third party.

The Notice informed the Tenant that the Notice to End tenancy would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and 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.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

As the Tenant had the Notice to End Tenancy in February of 2010, and yet did not pay the rent or vacate the rental unit, I am ordering the Application be amended to include two additional months of rent for March and April of 2010.

Therefore, I find that the Landlord has established a total monetary claim of **\$1,840.00** comprised of \$690.00 for rent for February and a balance of rent from January 2010, \$1,050.00 for rent for March and April of 2010, as well as \$50.00 in late fees for these two months pursuant to the tenancy agreement, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit **\$262.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,577.50**.

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

Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy. The Tenant did not vacate and did not pay rent for two additional months.

The Landlord is granted an Order of Possession, may keep the security deposit and interest in partial satisfaction of the claim and is granted a monetary order for the balance due.

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 13, 2010.

Dispute Resolution Officer