

DECISION

Dispute Codes OPR, CNR, MNR, MNSD, MNDC, ERP, RP, PSF, FF

Introduction

This hearing dealt with the cross Applications for Dispute Resolution. The landlord sought an order of possession and a monetary order. The tenant sought to cancel the notice to end tenancy, a monetary order and an order to have the landlord make repairs and emergency repairs.

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

As this hearing dealt with cross applications I am satisfied the tenant was aware of the date and time of this hearing. The landlord's agent testified that the landlord's evidence was served on the tenant on July 16, 2010 by leaving attached to the tenant's door. I am satisfied the tenant has been adequately served with the landlord's evidence.

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; 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)*.

In addition it must be decided whether the tenant is entitled to cancel the 10 Day Notice to End Tenancy for Unpaid Rent; to an order to have the landlord make repairs and emergency repairs; to a monetary order for emergency repairs; for compensation for damage or loss under the *Act* and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to sections 32, 33, 46, 67, and 72 of the *Act*.

Background and Evidence

The tenancy began on August 1, 2009 as a month to month tenancy with a monthly rent of \$1,000.00 due on the 1st of the month with a security deposit of \$500.00 paid.

The landlord submitted into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent, issued on June 3, 2010 with an effective vacancy of June 14, 2010 due to \$1,000.00 unpaid rent due on June 1, 2010. The landlord noted in her application that the tenant also owed \$50.00 rent for the month of May, 2010 and anticipated lost income for the month of July if the tenant failed to pay rent for July 2010.

The tenant's agent confirmed in her testimony that the tenant has not paid any of the outstanding rent and currently owes \$2,050.00. The landlord's agent testified the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the rental unit door on June 3, 2010.

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 apply to dispute the Notice to End Tenancy within five days.

Analysis

In the absence of any evidence or testimony from the tenant, I dismiss his application, in its entirety, without leave to reapply.

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 tenant on June 6, 2010 and the effective date of the notice is amended to June 16, 2010, pursuant to Section 53 of the *Act*. 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 and in the absence of the tenant, 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 **\$2,100.00** comprised of \$2,050.00 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 \$500.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,600.00**. 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: July 23, 2010.

Dispute Resolution Officer