

DECISION

Dispute Codes OPR, CNC, DRI, MNR, MNSD, FF

Introduction

This hearing dealt with the cross Applications for Dispute Resolution. The landlord was seeking an order of possession and a monetary order. The tenant was seeking to cancel a notice to end tenancy and a notice of rent increase.

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

As the tenant filed his own application to dispute the notice to end tenancy, I find the tenant would be aware of this hearing and find that he is sufficiently served for the purposes of this hearing.

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)*.

It must also be decided whether the tenant is entitled to disregard a 1 Month Notice to End Tenancy for Cause and to dispute an additional rent increase, pursuant to sections 43 and 47 of the *Act*.

Background and Evidence

The tenancy began on April 25, 2010 as a month to month tenancy for a monthly rent of \$800.00 due on the 1st of the month. Despite the tenant paying a security deposit of \$400.00 at the start of the tenancy, the landlord testified that he had agreed for the tenant to use \$380.00 towards rent in May 2010.

The landlord and tenant both provided a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 4, 2010 with an effective vacancy date of June 15, 2010 due to \$1,180.00 in unpaid rent.

The landlord testified that the tenant failed to pay the full rent owed for the months of May, June and July 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent personally to the tenant on June 4, 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

I have reviewed the evidence and testimony 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 4, 2010 and the effective date of the notice is June 15, 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 and in the absence of the tenant at this hearing, 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

In the absence of the tenant applicant, I dismiss the tenant's application, in its entirety without leave to reapply.

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 **\$1,750.00** comprised of \$1,700.00 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 \$20.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,730.00**. 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 26, 2010.

Dispute Resolution Officer