



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, ERP, MNDC, OLC, RP, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution.

The Tenant applied for a monetary order for compensation under the Act or tenancy agreement, for orders for the Landlord to comply with the Act, to make emergency repairs or other repairs to the rental unit, and to recover the filing fee for the Application.

The Landlord applied for an order of possession due to unpaid rent, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

The Landlord served his Application for Dispute Resolution and Notice of Hearing by registered mail, sent on August 25, 2010, and deemed served five days later under section 90 of the Act.

Despite having her own Application, the Application of the Landlord and the Notice of these Hearings, the Tenant did not appear. I find the Tenant has been duly served under the Act and had notice of the time and place of the hearing.

Therefore, I dismiss the Application of the Tenant.

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 Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on August 13, 2010, by posting on the door. The Notice informed the Tenant that the Notice would be cancelled if the rent was

paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The Landlord testified that the Tenant had failed to pay the August rent within the five days allowed under the Act and furthermore, the Tenant failed to pay the Landlord for September 2010 rent. There is no evidence that the Tenant amended her Application to dispute the 10 day Notice to End Tenancy for unpaid rent.

Analysis

Based on the above, the uncontradicted 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, August 26, 2010.

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 has failed to pay rent for an additional month since the Notice to End Tenancy was issued, I allow the Landlord to amend his Application to include a claim for September 2010 rent.

Therefore, I find that the Landlord has established a total monetary claim of **\$3,050.00**, comprised of \$3,000.00 in rent for August and September 2010, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$750.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,300.00**.

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

Conclusion

The Tenant did not attend the hearing and therefore, her Application is dismissed.

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 Landlord is granted an Order of Possession, may keep the security deposit 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: September 03, 2010.

Dispute Resolution Officer