



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for a monetary order and for an order of possession.

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

The landlord testified that he served notice of this hearing to the tenant by leaving a copy of the hearing documents with the tenant's live in adult babysitter. I accept the tenant was sufficiently served with notice of this hearing.

The landlord also testified the tenant moved out sometime in August 2010 and there is no longer a requirement for an order of possession, as such the landlord's application is amended to exclude the matter of an order of possession.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began on December 15, 2009 as a month to month tenancy for a monthly rent of \$700.00 due on the 1st of the month with a security deposit paid of \$350.00 at the start of the tenancy. The landlord testified that the security deposit was used to cover a previous period of unpaid rent.

The landlord testified that the tenant had failed to pay rent for July 2010 and on July 2, 2010 he issued a 10 Day Notice to End Tenancy for Unpaid Rent with an effective vacancy date of July 12, 2010 due to \$700.00 in overdue rent.

When the tenant had not vacated the landlord submitted his Application for Dispute Resolution on July 15, 2010. The landlord testified the tenant also failed to pay the rent

for August 2010 and did not inform the landlord of when she would be vacating the rental unit.

The notice was served by leaving it with the tenant's adult live in babysitter on July 2, 2010. The notice stipulates the tenant may file an application to dispute the notice within 5 days of receipt of the notice. The tenant did not file an application to dispute this notice.

Analysis

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 July 2, 2010 and the effective date of the notice is July 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*.

I also accept the landlord's testimony that he was not aware of the specific dated the tenant moved out of the rental unit.

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 monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,450.00** comprised of \$1,400.00 rent owed and the \$50.00 fee paid by the landlord for this application.

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: September 07, 2010.

Dispute Resolution Officer