

Decision

Dispute Codes:

MNR, OPR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated August 4, 2010 and a monetary order for rental arrears owed and the cost of the application.

Both parties appeared and gave evidence..

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

Whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent

Whether or not the landlord is entitled to monetary compensation for rental arrears owed and loss of rent

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated August 4, 2009 with effective date of August 14, 2010, a copy of the resident ledger, copies of communications and a copy of the tenancy agreement. The landlord testified that the tenancy began in November 2003, and the tenant paid total security deposit of \$425.00. The landlord testified that the tenant failed to pay \$850.00 rent each

month and accumulated arrears to date of \$7,804.25. The landlord testified that the landlord was responsible for paying a portion of the utilities but that the tenant had not presented the landlord with any invoices. The landlord testified that the debt owed by the tenant would be reduced by the amount of the utility reimbursement. The landlord was seeking a monetary order for rent owed and an order of possession based on the Ten-day Notice.

The tenant testified that approximately \$2,000.00 is owed for the landlord's portion of the utilities. The tenant was hopeful that the landlord would allow the tenant more time to pay the \$5,804.25 still owed.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent in person. The tenant has not paid all of 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. Based on the above facts I find that the landlord is entitled to an Order of Possession.

Based on a discussion between the parties, the landlord has requested that the Order of Possession be effective on October 18, 2010 to allow the tenant a two-week window of opportunity in which to pay all arrears in full, failing which the Order will be served and enforced by the landlord.

I find that the landlord has established a total monetary claim of \$5,904.25 comprised of \$5,804.25 accrued rental arrears, (after deducting \$2,000.00 estimated utilities owed to the tenant by the landlord), and the \$100.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit and interest of \$440.05 in partial satisfaction of the claim leaving a balance due of \$5,464.20.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective 1:00 p.m. on Monday October 18, 2010. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court if necessary.

I hereby grant the Landlord an order under section 67 for \$5,464.20. This order must be served on the Respondent 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: October 2010.

Dispute Resolution Officer