



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, & FF

Introduction

This hearing dealt with the landlord's application seeking an Order of Possession and a monetary claim due to the tenant's failure to pay rent. Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

Has the tenant breached the tenancy agreement or *Act* entitling the landlord to an Order of Possession and a monetary claim?

Background and Evidence

This tenancy began on August 1, 2003 and the current monthly rent is \$624.00. The tenant paid a security deposit of \$297.50 on October 3, 2003.

On September 2, 2010 the tenant was served with a 10 day Notice to End Tenancy Due to Unpaid Rent. Both the landlord and the tenant agreed that the tenant still owes the landlord the sum of \$353.00 in outstanding rent from October 2010.

The tenant explained that he is experiencing some financial hardship at this time and is in the process of applying for assistance. He expressed his wish to stay in the rental unit and stated that he could re-pay all the outstanding rent owed by December 1, 2010.

Analysis

Based on the testimony of landlord, I find that the tenant was served with a Notice to End Tenancy for non-payment of rent. The tenant has not paid all the outstanding rent and did not apply for Dispute Resolution to dispute the Notice and is therefore conclusively presumed 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 for possession.

The agent for the landlord consented that the Landlord would be willing to withhold enforcement of an Order for Possession on the condition that the tenant pay to the Landlord the total amount of outstanding rent of \$403.00 comprised of the following: outstanding rent for October 2010 in the amount of \$353.00 and the \$50.00 filing fee in respect of this application. The tenant is also required to pay the rent owed of \$624.00 on November and December 1, 2010.

If the \$403.00 is not paid by 1:00 pm on December 1, 2010 then the Landlord is entitled to enforce the Order for Possession. A formal order has been issued and may be filed in the Supreme Court and enforced as an order of that Court.

As for the monetary claim, if payment is not received by the above mentioned time and date, I find that the Landlord has established a claim for unpaid rent and the \$50.00 fee paid by the Landlord for this application totalling \$403 .00. I order that the Landlord retain the deposit and interest of \$308.03 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$94.97. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord's application has been granted.

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 22, 2010.

Dispute Resolution Officer