



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order for unpaid rent and an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

The Landlord, the Agent for the Landlord and the Tenant appeared, gave affirmed 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.

I note that the original Application listed the Tenant's son and not the Tenant; however the Landlord testified and submitted evidence that the Application was amended to show the Tenant as the Respondent and that this Amendment was served to the Tenant by registered mail, on September 25, 2010. The Tenant confirmed receipt of the Notice of Hearing listing his name as Respondent and I accept he was served in the time and manner in accordance with the Act.

At the outset of the hearing, the Tenant testified and the Landlord acknowledged that the Tenant has vacated the rental unit, and the Landlord is no longer requesting an Order of Possession.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order for monetary relief?

Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord and affirmation of the Tenant, I find that the Tenant was served with a 10 Day Notice to End Tenancy, (the "Notice"), for non-payment of rent by posting on the door on September 7, 2010, with a stated move out date of September 19, 2010. Under the Act, the Tenant is deemed served three days later by this method, making the effective move out September 20, 2010.

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 Agent for the Landlord testified that the monthly rent is \$1,050.00, that the Tenant has not paid rent for September and October 2010. The Agent for the Landlord testified that the current unpaid rent is \$2,100.00.

The Tenant did not dispute this amount.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find the Tenant has not paid the outstanding rent owed to the Landlord and failed to apply to dispute the Notice, and therefore, is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, on August 28, 2010.

I find that the Landlord has established a total monetary claim of **\$2,150.00** comprised of unpaid rent of \$2,100.00 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the security deposit of **\$525.00** and the pet damage deposit of **\$150.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,475.00**.

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

Conclusion

The Tenant failed to pay rent and did not apply 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 a monetary order for the amount of \$1,475.00.

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 26, 2010.

Dispute Resolution Officer