



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent; damage or loss under the Act, regulations or tenancy agreement; authority to retain the security deposit and recovery of the filing fee. The tenant did not appear at the hearing. The landlord provided a registered mail tracking number as evidence the tenant was served with the hearing documents on September 27, 2010. Having been satisfied the tenant was sufficiently served I proceeded to hear from the landlord without the tenant present.

At the commencement of the hearing the landlord stated the tenant has paid the outstanding rent and the landlord has reinstated the tenancy. The landlord withdrew the request for an Order of Possession and reduced the request for a Monetary Order to \$50.00 – the amount paid for filing this application.

Issues(s) to be Decided

Should the landlord be awarded the cost of the filing fee?

Background and Evidence

The landlord provided the following evidence. The tenancy commenced October 1, 2007 and the tenant is currently required to pay rent of \$714.68 on the 1st day every month. The landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door on September 3, 2010. The tenant made payments to

satisfy the rental arrears on September 23 and 27, 2010. On September 27, 2010 the tenant was fully caught up on the rental arrears.

The landlord provided a copy of the Notice and the tenant's ledger as evidence.

Analysis

Where a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or dispute the Notice. A landlord may request an Order of Possession and Monetary Order for unpaid rent if the tenant has not paid the outstanding rent within five days of receiving the Notice.

Based upon the evidence before me, I find the landlord waited until September 24, 2010 to file this application which is at least five days after serving the Notice upon the tenant and before such time full payment of the outstanding rent was made. Therefore, I find the landlord had sufficient grounds to make this application and I award the filing fee to the landlord. I provide the landlord with a Monetary Order in the amount of \$50.00 to serve upon the tenant.

Conclusion

The landlord has accepted rent from the tenant and reinstated the tenancy. The landlord has been provided a Monetary Order in the amount of \$50.00 to recover the cost of filing fee paid for this application.

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 28, 2010.

Dispute Resolution Officer