



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

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 September 10, 2010, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing sent by registered mail to both parties in one envelope and also by posting on the door, the tenant did not appear.

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.

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy and a copy of the tenancy agreement. The landlord testified that the tenancy began in 2004 at which time the tenant paid a security deposit of \$750.00. The landlord testified that

the tenant failed to pay rent and the Notice was issued after which the tenant gave written Notice that the tenant had vacated as of October 1, 2010.

The landlord has requested an Order of Possession..

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 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.

Because the registered mail with the Notice of hearing was sent to the subject address on October 15, 2010, which was after the date that the tenant gave to vacate, I find that the landlord's monetary claim must be dismissed with leave to reapply, once one or both of the tenants has been located for service.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective immediately. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I order that the landlord retain \$50.00 for the cost of the hearing application from the tenants' security deposit.

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: November 2010.

Dispute Resolution Officer