



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNDC, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

An Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenant was served with the Notice of Hearing and the Application for Dispute Resolution by registered mail, sent on October 22, 2010, and deemed served five days later under the Act. Despite this, the Tenant did not appear at the hearing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

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

Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord, I find that the Tenant was personally served with a Notice to End Tenancy for non-payment of rent on October 8, 2010.

The Tenant did not pay all 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.

The Agent testified that the Tenant vacated the rental unit on October 31, 2010.

Analysis

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

Although the Landlords are entitled to an order of possession in these circumstances, the Tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant failed to pay rent under the Act and tenancy agreement.

I find the Landlords have established a total monetary claim of **\$800.00** comprised of rent owed for October of 2010, and the \$50.00 fee paid by the Landlords for this application.

The Agent for the Landlord testified that no security deposit had actually been taken. Therefore, I grant the Landlord an order under section 67 for the balance due of **\$800.00**

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

The Landlords have leave to apply for further monetary orders.

Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy, although he has vacated the rental unit. Therefore, an Order of Possession is not required.

The Landlords are granted a monetary order for rent due and have leave to apply for further monetary compensation.

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 16, 2010.

Dispute Resolution Officer