



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession based on unpaid rent, a monetary order and an order to recover the filing fee for the Application.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent on November 1, 2010, and deemed served five days later under the Act, the Tenant did not appear. I note that failing or neglecting to receive registered mail is not a ground for review under the Act. I find the Tenant has been duly served in accordance with the Act.

The Landlords appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

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 testimony and evidence of the Landlords, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on October 20, 2010, by posting on the door.

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.

There is no evidence the Tenant applied to dispute the Notice. The testimony of the Landlords was that the Tenant had not paid all the rent due and that she was \$100.00 short in March, \$300.00 short in July, \$190.00 short in August, \$300.00 short in September and had paid no rent of \$650.00 for October or November of 2010.

Analysis

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

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.

I find that the Landlord is entitled to an order of possession effective **at 1:00 p.m. November 20, 2010**. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the Landlord has established a total monetary claim of **\$2,140.00** comprised of unpaid rent in the amount of \$2,090.00 and the \$50.00 fee paid by the Landlord for this application.

As the Landlords have suffered a loss and are still holding the security deposit, I allow them to amend the Application to include a claim against the security deposit, pursuant to sections 64 and 72 of the Act.

I order that the Landlords retain the deposit of \$325.00 in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$1,815.00**.

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 all rent when due and did not file 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 Landlords are granted an Order of Possession, may keep the security deposit in partial satisfaction of the claim and are granted a monetary order for the balance due.

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 18, 2010.

Dispute Resolution Officer