



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. Both parties attended the hearing and had an opportunity to be heard.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on July 1, 1997. The rent is \$1,131.00 due in advance on the first day of each month. A security deposit of \$442.50 was paid at the start of the tenancy. On September 8, 2010 the tenant was served with a Notice to End Tenancy for non-payment of rent. The tenant did not pay the outstanding rent within five days of receiving the Notice and did not file an application to dispute the Notice. The tenant has, however, paid all of the arrears.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit – Given that the tenant has paid all of the outstanding rent, the landlord's monetary claim is comprised solely of the \$50.00 fee paid by the landlord for this application. I therefore order the tenant to pay to the landlord the sum of \$50.00. This order may be filed in the Small Claims Court and enforced as an order of that Court. The landlord may also withhold this amount from the tenant's security deposit at the end of the tenancy

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*.