

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

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

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on October 18, 2010, the Tenant did not appear. The Agent for the Landlord provided a tracking number for the delivery of the documents.

The Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and 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 affirmed testimony and evidence of the Agent for the Landlord, I find that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on October 2, 2010, by posting on the door. The Notice stated the amount of unpaid rent was \$1,390.50, plus a \$25.00 late fee and also 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. I note the effective move out date listed on the Notice did not take into account the three days necessary for effective service of documents and is automatically corrected to October 15, 2010.

The Tenant did not apply to dispute the Notice. The Landlord provided evidence and testified that the Tenant has not paid the rent owed under the Notice, has not paid the November rent of \$785.00, and also owes a late fee for November of \$25.00, \$10.00 for registered mail, and \$90.92 for utilities.

Analysis

Based on the above 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 **2 days** after service on the Tenant. 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 **\$2,275.50** comprised of **\$2,175.50** in unpaid rent, **\$50.00** for two late fees and the **\$50.00** fee paid by the Landlord for this application. I do not accept the Landlord's claim for registered mail fee or for utilities as I find this was not an obligation under the tenancy agreement and the statement provided by the Landlord was seven months old.

I order that the Landlord withhold from the security deposit of **\$382.50** in partial satisfaction of the claim, and I grant the Landlord an order under section 67 for the balance due of **\$1,893.00**.

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 rent and did not apply 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 Landlord is granted an Order of Possession and a monetary order for the balance due of **\$1,893.00**.

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 12, 2010.

Dispute Resolution Officer