

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 in person on October 20, 2010, the Tenant did not appear.

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.

I note the Agent for the Landlord testified that she submitted the evidence package to the Residential Tenancy Branch containing the Notices to End Tenancy and other supporting documentation on October 21, 2010, but the evidence was not in the file. I allowed the Agent to transmit the evidence by facsimile at the conclusion of the hearing.

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 7, 2010, in person, with an effective move out date of October 17, 2010. 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.

The Tenant did not apply to dispute the Notice. The Agent for the Landlord provided evidence and testified that the Tenant did not pay the amount listed on the Notice of \$265.00 and did not pay the monthly rent of \$625.00 for November, 2010.

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.

As the Tenant is over holding, I find the Landlord is entitled to the rent for November and I find that the Landlord has established a total monetary claim of **\$940.00** comprised of \$890.00 in unpaid rent and the \$50.00 fee paid by the Landlord for this application.

I allow the Landlord to withhold the security deposit of **\$312.50** in partial satisfaction of the claim, and I grant the Landlord an order under section 67 for the balance due of **\$627.50**.

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 **\$627.50**.

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