



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, OPR, MNSD, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession and a monetary order.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on November 12, 2010 the Tenant did not appear.

The Landlord appeared, gave affirmed testimony and was provided the opportunity to present his 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 of the Landlord, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on November 4, 2010, in person. 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. I note the effective date indicated on the Notice is ineffective and automatically corrects under the Act to November 14, 2010.

The Tenant did not apply to dispute the Notice, which listed the amount of unpaid rent as \$2,650.00. The Landlord provided evidence and gave affirmed testimony that the Tenant had not paid the rent due as listed, did not pay the December 2010 rent, and is now over holding in the rental unit, despite giving his notice of intent to vacate.

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 **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 allow the Landlord to amend his Application to include a claim to add the month of December in the amount of \$1,450.00, to retain the security deposit in partial satisfaction of the claim and to include the filing fee for the Application.

I find that the Landlord has established a total monetary claim of **\$4,150.00** comprised of \$4,100.00 in unpaid rent and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$725.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$3,425.00**.

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

I do not find the Landlord has established clear proof that he has incurred expenses for unpaid utilities and I decline to award him this amount.

Conclusion

The Tenant failed to pay rent 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 Landlord is granted an Order of Possession, may keep the security deposit in partial satisfaction of the claim and is granted a monetary order for the balance due of **\$3,425.00**.

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: December 02, 2010.

Dispute Resolution Officer