



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

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

Both parties and the Landlord's Agent appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, 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 and affirmation of the Tenant, I find that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on November 26, 2010, by leaving a copy at the Tenant's address with an adult who apparently resides with the Tenant. The Tenant acknowledged service of the Notice.

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 December 6, 2010.

The Landlord testified that the monthly rent is \$1,500.00, \$750.00 on the 8th day of the month and \$750.00 on the 23rd day of the month, the Tenant made some partial payments but that the current unpaid rent and unpaid utilities is \$2,950.00. The Landlord stated that an additional \$750.00 will be owed on December 23, 2010.

The Tenant acknowledged this was a correct amount and that the Tenant planned on moving from the rental unit.

Analysis

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

I find the Tenant has not paid the outstanding rent and utilities owed to the Landlord and failed to apply to dispute the Notice, and therefore, is 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 **two 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's claim for the entire month of December and I find that the Landlord has established a total monetary claim of **\$3,750.00** comprised of unpaid rent of \$3,700.00 through the end of December and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$750.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$3,000.00**.

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.

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 17, 2010.

Dispute Resolution Officer