



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 was an application by the landlord for a monetary order and an order for possession. The hearing was conducted by conference call. The landlord's representative participated in the hearing. the tenant did not call in and did not participate although she was served with the application for dispute resolution and Notice of Hearing sent by registered mail on November 23, 2010

Issues(s) to be Decided

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary order for unpaid rent anif if so in what amount?

Background and Evidence

The tenancy began on October 1, 2010 for a one year fixed term with monthly rent in the amount of \$820.00. The tenant paid a security deposit of \$410.00 at the commencement of the tenancy. Under the terms of the tenancy agreement the tenant was not required to pay rent for the month of October. The tenant failed to pay rent for November and the landlord issued a 10 day Notice to End Tenancy for unpaid rent on November 2, 2010. The Notice was served on the tenant by posting to the door of the rental unit on November 2010. The tenant did not pay November's rent within five days and she has not applied to dispute the Notice to End Tenancy.

The tenant did not pay rent for November or for December. The landlord has claimed a late payment fee of \$25.00 and an NSF cheque charge because the tenant's rent cheque was returned due to insufficient funds. The landlord's representative testified that the tenant moved out in December without giving Notice or providing a forwarding address. The landlord has requested an order for possession out of concern that the tenant may attempt to return to the rental unit. The landlord has been unsuccessful in re-renting the unit for the month of December.

Analysis and Conclusion

The tenant has not paid the outstanding rent and has not applied to dispute the Notice to End Tenancy; she is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order for 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 find that the landlord has established a claim for unpaid rent totalling \$1,640 for the months of November and December. I award the landlord a \$25.00 late fee and a \$25.00 NSF cheque charge. The landlord is entitled to recover the \$50.00 filing fee for this application, but not the amount paid for registered mail for a total claim of \$1,740.00. I order that the landlord retain the deposit and interest of \$410.000 and I grant the landlord an order under section 67 for the balance due of \$1,330.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: December 13, 2010.
