



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

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 and a monetary order due to unpaid rent.

The hearing was conducted via teleconference and was attended by the landlord only, the tenant did not attend.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began as a month to month tenancy on December 1, 2010 for a monthly rent of \$950.00 due on the 1st of each month and a security deposit of \$475.00 and a pet damage deposit of \$475.00 paid on November 30, 2010.

The landlord submitted a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on January 6, 2011 with an effective vacancy date of January 16, 2011 due to \$950.00 in unpaid rent.

Testimony provided by the landlord indicates that the tenant failed to pay the full rent owed for the month of January 2011 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent personally on January 6, 2011.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The landlord testified the tenant provided payment of rent in full on January 22, 2010 and that the landlord issued a receipt for the payment stating that it was for use and occupancy only. The tenant did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all y evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on January 6, 2011 and the effective date of the notice is January 16, 2011. I accept the evidence before me that the tenant failed to pay the rent owed in full with in the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid by the landlord for this application. I order the landlord may deduct this amount from the security deposit and interest held in the amount of \$475.00 in satisfaction of this claim, leaving a balance in the security deposit of \$425.00. The pet damage deposit remains at \$475.00.

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: February 01, 2011.

Residential Tenancy Branch