



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 conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; and to recover the filing fees associated with this application.

The landlord participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent on January 28th, 2011. The tenant did not participate and the hearing proceeded in the tenant's absence.

At the outset, the landlord stated that the tenant moved out of the rental unit on February 1st, 2011. Therefore the landlord's application for an Order of Possession is dismissed.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and if so for what amount?

Background and Evidence

The rental unit consists of a basement suite in a single detached home. Pursuant to a verbal agreement, the month to month tenancy started on December 15th, 2010.

The monthly rent was \$475.00 and the tenant paid a security deposit in the amount of \$200.00.

In her application, the landlord submitted that the tenant did not pay rent for the month of January 2011. At the hearing, she testified that she served the tenant with a 10 Day Notice to End Tenancy on January 18th, 2011, by posting the notice on the tenant's door. The landlord submitted a claim for that month's rent for \$475.00.

Analysis

I accept the landlord's undisputed testimony that she served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution.

Based on the available evidence, I find that the landlord is entitled to a monetary order as claimed.

Conclusion

I authorize the landlord to retain the tenant's \$200.00 security deposit for a balance owing of \$275.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$325.00.

This Order may be registered in the Small Claims Court and enforced as an order of that Court.

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 11, 2011.

Residential Tenancy Branch