



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an Order of Possession based on the Notice to End Tenancy for nonpayment of rent, a request for a monetary order for \$1586.56, and a request that the respondent bear the \$50.00 cost of the filing fee.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on September 11, 2010 for a tenancy beginning September 11, 2010 for the monthly rent of \$850.00 due on 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, January 3, 2011 with an effective vacancy date of January 13, 2011 due to \$736.56 in unpaid rent.

The landlord testified that the tenant(s) had failed to pay the full rent owed for the month of January 2011 and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent by hand on January 3, 2011.

The Notice states that the tenant(s) had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant(s) did not apply to dispute the Notice to End Tenancy within five days.

The landlord further testified that the tenant has subsequently made a \$300.00 payment, and therefore the total amount a rent outstanding at this time is \$1236.56.

The landlord is requesting an order for that outstanding rent plus \$50.00 in late fees and the \$50.00 filing fee for a total of \$1336.50.

The tenant testified that she does not dispute the amounts owed and have not been able to pay them due to some financial difficulties however they will be able to pay \$700.00 on February 4, 2011 in the remaining balance on February 18, 2011, and therefore requested that the landlord allow the tenancy to continue.

Analysis

I have reviewed all the evidence and testimony, and accept that the tenants have been served with notice to end tenancy as declared by the landlords. I accept the evidence before me that the tenants have 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 tenants are 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 landlords are entitled to an Order of Possession effective **two days after service on the tenant(s)**. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlords are entitled to monetary compensation pursuant section 67 in the amount of \$1336.56 comprised of \$1236.56 in rent outstanding, \$50.00 in late fees, and the \$50.00 filing fee. This order must be served on the tenant(s) and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

At the hearing the landlord agreed that if the tenant pays \$700.00 of the above amount by February 4, 2011, and the remaining \$636.56 by February 18, 2011, she will not enforce the Order of Possession and will allow the tenancy to continue.

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 03, 2011.

Residential Tenancy Branch